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DISTRICT OF COLUMBIA—STATEHOOD

HEARING

BEFORE THE

SUBCOMMITTEE ON FISCAL AFFAIRS
AND HEALTH

OF THE

COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

ON

STATEHOOD FOR THE CITIZENS OF THE DISTRICT OF COLUMBIA

MAY 22, 1985

Serial No. 99–3

Printed for the use of the Committee on the District of Columbia

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STATEHOOD FOR THE DISTRICT OF COLUMBIA

WEDNESDAY, MAY 22, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISCAL AFFAIRS AND HEALTH,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, DC.

The subcommittee met, pursuant to call, at 9:45 a.m., in room 1310, Longworth House Office Building, Hon. Walter E. Fauntroy (chairman of the subcommittee) presiding.

Present: Representative Fauntroy.

Also present: Edward C. Sylvester, Jr., staff director; Johnny Barnes, senior staff counsel; Donn G. Davis, senior legislative associate; and John Gnorski, minority staff director.

Mr. FAUNTROY. The subcommittee will come to order.

Today, we hold the first of this Congress' hearings on the issue of statehood for the citizens of the District of Columbia.

As we open the hearing, I want to express my appreciation to the distinguished witnesses of today for having rearranged their schedules so that we could begin these hearings this day.

As I indicated at the beginning of the 99th Congress, we have two basic goals. One is to free District of Columbia and the other is to free South Africa, and it so happened that on May 21, 6 months to the day after we initiated the free South Africa movement, on the very day that we had scheduled our hearings to open on statehood, we had to go to the floor to debate the Anti-Apartheid Act, and, in a very real sense, there are many parallels between ourselves as residents of our Nation's Capital and those who are voteless in South Africa.

I'm confident that, as we seek to correct the tyranny of taxation without representation in our own Nation's Capital, we may well be successful in moving the conscience of this Nation to assist as well in the plight of the 22.3 million blacks of South Africa who are denied basic human rights as well.

We will hear this morning from local government officials who will react to the recommendations of the statehood task force.

You will recall that at the beginning of the process on Capitol Hill, we made a commitment to those who supported the statehood constitution at the referendum, that we would give all of them an opportunity to deal with many of the criticisms that had been voiced by some during the referendum period, criticisms that threatened to deny us this opportunity to move ahead in this Congress on statehood.

Accordingly, 1 year ago, we circulated copies of the statehood constitution to our colleagues on Capitol Hill as the citizens of the city also had an opportunity to look at it in great detail, and, at hearings held on May 15, 1984, my colleagues in the Congress lent their input to the kinds of adjustments that might have to be made to assure that those of us who strongly support statehood would have the best opportunity to move it through this Congress.

Those hearings and the comments of many of our citizens on that statehood constitution were turned over to an informal group which undertook, over a period of nearly a year, an effort to perfect the proposed D.C. statehood constitution, and the results of that task force are in D.C. Committee Print No. S–2, which I have had printed and made available to the citizenry.

The goal of the task force was to try to produce a document whereby statehood would be the issue before the Congress and not the document itself.

The task force assembled comments from Members of Congress, writings from various sectors of the community, and comments from District of Columbia government officials.

The task force also made use of the record from the first hearing on statehood held during the last Congress. During that hearing, testimony was received from key Members of the House and the Senate, and the hearing record has also been provided you.

During the course of their work, the task force consulted with many experts. In addition, from time to time, staff members of the House and Senate were invited to participate. Every effort was made to take into account the views of a broad cross section of the Congress, the community, and interested parties.

I believe the constitution, as revised, is now worthy of serious consideration by the Congress. Having the benefit of detailed comparative analysis of each provision of the proposed constitution and the comparable or similar provisions from State constitutions and statutes, the task force arrived at the opinion that, on the whole, the District's constitution was a sound, well conceived document with provisions not unlike those found in many States.

Changes are proposed in only 4 of the 18 articles, with most of the changes being found in article 1, the bill of rights section.

Many of the provisions which were roundly criticized by some citizens and by many in the media, as well as those provisions targeted by Members of the Congress, have been stricken or significantly modified.

The right to a job or an income at the expense of the State, as found in article 1, section 20—perhaps the object of most criticism—is stricken. The task force took into account that in article 11, section 3 (a) and (b), provision is made for unemployment and workers' compensation as well as public sector jobs and welfare.

The prohibition against a grand jury engaging in so-called fishing expeditions, which appears in article 1, section 8, and which was also the subject of much negative commentary, is stricken. Former Chief Judge Newman of the District of Columbia Court of Appeals was among those especially disturbed by this section.

The absolute right to strike among government employees, in article 12, section 1, is modified to conform to provisions in other

States. This section was a cause for concern among many of my colleagues in the House.

The wordy, detailed, overreaching provision regarding searches and seizures by law enforcement officials, in article 1, section 6, which Senator Specter criticized at length, is substantially changed. The task force took the language from the fourth amendment of the U.S. Constitution and added language limiting government wiretaps in reshaping this section.

Drawing on language proposed by Frank Carter, former director of the District of Columbia Public Defender Service, the task force tempered article 1, section 7, by disallowing discovery of all evidence possessed by the State and giving reasonable access to government evidence for fair and just prosecutions. In this way, innocent victims and witnesses are safeguarded.

The bail provision found at article 1, section 9, is changed to allow for preventive detention, as proposed by Senator Specter, in situations involving dangerous criminals who have committed serious crimes.

And the provision which makes the government the lender of last resort for anyone wanting a loan is modified so that the government is not by law required to provide loans to everyone. That provision is found in article 8, sections 2 and 3.

In making these and other changes, the task force made every effort to make the proposed constitution a more perfect document, palatable to the Congress, without sacrificing the essence of the document and the spirit of the constitutional convention.

[The bill, H.R. 325, follows:]

[The prepared statement of Mr. Fauntroy follows:]

99TH CONGRESS
1ST SESSION

H. R. 325

To provide for the admission of the State of New Columbia into the Union.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1985

Mr. FAUNTROY introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To provide for the admission of the State of New Columbia into the Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "New Columbia Admission Act".

ADMISSION INTO THE UNION

SEC. 2. Subject to the provisions of this Act, and upon issuance of the proclamation required by section 7(d)(1) of this Act, the State of New Columbia (hereinafter referred to as "the State") is declared to be a State of the United States of America, is declared admitted into the Union on an equal

footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the initiative measure numbered 3 for District of Columbia Statehood Constitutional Convention, approved May 29, 1982, by duly elected delegates from the District of Columbia, and adopted by a vote of the people of the District of Columbia in the election held on November 2, 1982, is found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is accepted, ratified, and confirmed.

CONSTITUTION

SEC. 3. The constitution of the State of New Columbia shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

TERRITORY AND BOUNDARIES

SEC. 4. (a) Subject to the provisions of this section, the State of New Columbia shall consist of all of the territory, together with the territorial waters, of the District of Columbia. The State of New Columbia shall not include the National Capital Service Area of the District of Columbia, which is described in subsection (b). As of the date of admission of New Columbia into the Union, the District of Columbia shall consist of the National Capital Service Area.

(b) The National Capital Service Area, subject to the provisions of section 16, is comprised of the principal Federal

monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the Federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building.

(c) Notwithstanding any other provision of this section or of section 16, the boundaries of the State of New Columbia shall include the District Building.

COMPACT WITH UNITED STATES; CLAIMS TO FEDERAL LANDS AND PROPERTY

SEC. 5. (a) As a compact with the United States, the State and its people disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

(d) Notwithstanding any other provision of this Act or any other provision of law, the annual federal payment authorized to be appropriated to the District of Columbia pursuant to section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–3406) shall be authorized to be appropriated to the State of New Columbia.

STATE TITLE TO LANDS AND PROPERTY

SEC. 6. (a) The State of New Columbia and its political subdivisions shall have and retain title to all property, real and personal, title to which is held by the territory of the District of Columbia.

(b)(1) Subject to paragraph (2), the State of New Columbia is granted, effective upon its admission into the Union, title to all public lands and other public property within the boundaries of the State of New Columbia, title to which is held by the United States immediately prior to admission of the State into the Union.

(2) Any lands and other properties that, as of the date of admission of New Columbia into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Mayor of the Dis-

trict of Columbia, shall remain the property of the United States.

(c) Not later than five years after the date of admission of New Columbia into the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to subsection (b) of this section shall submit a report to the President and the Congress concerning the need for such land or property. If the President determines that any such land or property is no longer needed by the Federal Government, it shall be conveyed to the State of New Columbia.

(d) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the State of New Columbia or its political subdivisions pursuant to this section or reserving the right to alter, amend, or repeal laws relating thereto shall cease to be effective upon the admission of the State of New Columbia into the Union.

ELECTIONS

SEC. 7. (a)(1) Not more than sixty days after the date of enactment of this Act, the President of the United States shall certify such enactment to the Mayor of the District of Columbia. Not more than thirty days after such certification the Mayor of the District of Columbia shall issue a proclamation for the elections, subject to the provisions of this Act, for officers of all State elective offices provided for by the consti-

tution of the proposed State of New Columbia and for two Senators and one Representative in Congress.

(2) In the first election of Senators from the State (pursuant to paragraph (1)) the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial offices shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) The proclamation of the Mayor of the District of Columbia required by subsection (a) shall provide for the holding of a primary election and a general election and at such elections the officers required to be elected as provided in subsection (a) shall be chosen by the people. Such elections shall be held, and the qualifications of voters shall be, as prescribed by the constitution of the proposed State of New Columbia for the election of members of the proposed State legislature. Election returns shall be made and certified in such manner as the constitution of the proposed State of New Columbia may prescribe. The Mayor of the District of Columbia shall certify the results of such elections to the President of the United States.

(c)(1) At an election designated by proclamation of the Mayor of the District of Columbia, which may be the primary

or the general election held pursuant to subsection (b), a territorial general election, or a special election, there shall be submitted to the electors qualified to vote in such election, for adoption or rejection, the following propositions:

(A) New Columbia shall immediately be admitted into the Union as a State.

(B) The boundaries of the State of New Columbia shall be as prescribed in the New Columbia Admission Act and all claims of the State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

(C) All provisions of the New Columbia Admission Act reserving rights or powers to the United States, including those prescribing the terms or conditions of the grants of lands or other property made to the State of New Columbia, are consented to fully by the State and its people.

(2) In the event the propositions under paragraph (1) are adopted in such election by a majority of the legal votes cast on such submission, the proposed constitution of the proposed State of New Columbia, ratified by the people at the election held on November 2, 1982, shall be deemed amended accordingly.

(3) In the event any one of the propositions under paragraph (1) is not adopted at such election by a majority of the

legal votes cast on such submission, the provisions of this Act shall cease to be effective.

(4) The Mayor of the District of Columbia is authorized and directed to take such action as may be necessary or appropriate to ensure the submission of such propositions to the people. The return of the votes cast on such propositions shall be made by the election officers directly to the Board of Elections of the District of Columbia, which shall certify the results of the submission to the Mayor. The Mayor shall certify the results of such submission to the President of the United States.

(d)(1) If the President finds that the propositions set forth in subsection (c)(1) have been duly adopted by the people of New Columbia, the President, upon certification of the returns of the election of the officers required to be elected as provided in subsection (a), shall issue a proclamation announcing the results of such election as so ascertained. Upon the issuance of such proclamation by the President, the State of New Columbia shall be deemed admitted into the Union as provided in section 2 of this Act.

(2) Until the State of New Columbia is admitted into the Union, individuals holding legisiative, executive, and judicial offices of the District of Columbia, including the Delegate in Congress from the District of Columbia, shall continue to discharge the duties of their respective offices. Upon the issu-

ance of such proclamation by the President of the United States and the admission of the State of New Columbia into the Union, the officers elected at such election, and qualified under the provisions of the constitution and laws of such State, shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of such State, and offices not required to be elected at such initial election shall be selected or continued in office as provided by the constitution and laws of such State. The Governor of such State shall certify the election of the Senators and Representative in the manner required by law, and the Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

HOUSE OF REPRESENTATIVES MEMBERSHIP

SEC. 8. The State of New Columbia upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law, except that such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives or affect the basis of apportionment for the Congress.

LAWS IN EFFECT

SEC. 9. Upon admission of the State of New Columbia into the Union, all of the territorial laws then in force in the Territory of the District of Columbia shall be and continue in force and effect throughout the State, except as modified or changed by this Act, or by the Constitution of the State, or as thereafter modified or changed by the legislature of the State. All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States.

CONTINUATION OF SUITS

SEC. 10. (a) No writ, action, indictment, cause, or proceeding pending in any court of the District of Columbia or in the United States District Court for the District of Columbia shall abate by reason of the admission of the State of New Columbia into the Union, but shall be transferred and shall proceed within such appropriate State courts as shall be established under the constitution of the State, or shall continue in the United States District Court for the District of Columbia, as the nature of the case may require. And no writ, action, indictment, cause, or proceeding shall abate by reason of any change in the courts, but shall proceed within the State or United States courts according to the laws thereof, respectively. The appropriate State courts shall be the successors of the courts of the District of Columbia as to all cases arising within the limits embraced within the jurisdic-

tion of such courts, respectively, with full power to proceed with such cases, and award mesne or final process therein, and all files, records, indictments, and proceedings relating to any such writ, action, indictment, cause, or proceeding shall be transferred to such appropriate State courts and shall be proceeded with therein in due course of law.

(b) All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of the State, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Columbia in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the substantive or criminal law governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the District of Columbia shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and pun-

ished in the United States District Court for the District of Columbia.

APPEALS

SEC. 11. Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Columbia or the District of Columbia Court of Appeals in any case finally decided prior to the admission of the State of New Columbia into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State shall be to the United States District Court for the District of Columbia or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Columbia and of the Supreme Court of the State of New Columbia, as successor to the District of Columbia Court of Appeals, in any case pending at the time of admission of the State into the Union, and the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by

law provided in any case arising subsequent to the admission of the State into the Union.

JUDICIAL AND CRIMINAL PROVISIONS

SEC. 12. Effective upon the admission of New Columbia into the Union—

(1) Section 41 of title 28, United States Code is amended in the second column by inserting ", New Columbia" after "District of Columbia".

(2) The first paragraph of section 88 of title 28, United States Code, is amended to read as follows:

"The District of Columbia and the State of New Columbia comprise one judicial district.".

MILITARY LANDS

SEC. 13. (a) Subject to subsection (b) and notwithstanding the admission of the State of New Columbia into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The State of New Columbia shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of

rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the State of New Columbia, or to prevent the State from exercising over or upon such lands, concurrently with the States, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as delineated by the President of the United States or the Secretary of Defense.

UNITED STATES NATIONALITY

SEC. 14. No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under

any law of the United States or under any treaty to which the United States is or was a party.

REPEAL OF INCONSISTENT LAWS

SEC. 15. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the legislature of the District of Columbia or by Congress, are hereby repealed.

NATIONAL CAPITAL SERVICE AREA

SEC. 16. (a) The National Capital Service Area referred to in section 4 is more particularly described as follows:

Beginning at the point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east of the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the north side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue to Jackson Place Northwest;

thence north on Jackson Place to H Street Northwest;

thence east on H Street Northwest to Madison Place Northwest;

thence south on Madison Place Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;

thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;

thence southeast on Pennsylvania Avenue Northwest to John Marshall Place Northwest;

thence north on John Marshall Place Northwest to C Street Northwest;

thence east on C Street Northwest to Third Street Northwest;

thence north on Third Street Northwest to D Street Northwest;

thence east on D Street Northwest to Second Street Northwest;

thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;

thence northeast on Louisiana Avenue Northwest to North Capitol Street;

thence north on North Capitol Street to Massachusetts Avenue Northwest;

thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;

thence following Union Square to F Street Northeast;

thence east on F Street Northeast to Second Street Northeast;

thence south on Second Street Northeast to D Street Northeast;

thence west on D Street Northeast to First Street Northeast;

thence south on First Street Northeast to Maryland Avenue Northeast;

thence generally north and east on Maryland Avenue to Second Street Northeast;

thence south on Second Street Northeast to C Street Southeast;

thence west on C Street Southeast to New Jersey Avenue Southeast;

thence south on New Jersey Avenue Southeast to D Street Southeast;

thence west on D Street Southeast to Canal Street Parkway;

thence southeast on Canal Street Parkway to E Street Southeast;

thence west on E Street Southeast to the intersection of Canal Street Southwest and South Capital Street;

thence northwest on Canal Street Southwest to Second Street Southwest;

thence south on Second Street Southwest to Virginia Avenue Southwest;

thence generally west on Virginia Avenue to Third Street Southwest;

thence north on Third Street Southwest to C Street Southwest;

thence west on C Street Southwest to Sixth Street Southwest;

thence north on Sixth Street Southwest to Independence Avenue;

thence west on Independence Avenue to Twelfth Street Southwest;

thence south on Twelfth Street Southwest to D Street Southwest;

thence west on D Street Southwest to Fourteenth Street Southwest;

thence south on Fourteenth Street Southwest to the middle of the Washington Channel;

thence generally south and east along the mid-channel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;

thence due east to the side of the Washington Channel;

thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River, and along the northern shore at the mean high water mark to the northernmost point of the Eleventh Street Bridge;

thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;

thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;

thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;

thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary;

thence generally north and west up the Potomac River along the Virginia-District of Columbia boundary to the point of beginning.

(b) Where the area in subsection (a) is bounded by any street, such street, and any sidewalk thereof, shall be included within such area.

(c)(l) Any Federal real property affronting or abutting, as of the date of the enactment of this Act, the area described in subsection (a) shall be deemed to be within such area.

(2) For the purposes of paragraph (l) Federal real property affronting or abutting such area described in subsection (a) shall—

(A) be deemed to include, but not limited to, Fort Lesley McNair, the Washington Navy Yard, the Anacostia Naval Annex, the United States Naval Station, Bolling Air Force Base, and the Naval Research Laboratory; and

(B) not be construed to include any area situated outside of the District of Columbia boundary as it existed immediately prior to the date of the enactment of this Act, nor be construed to include any portion of the Anacostia Park situated east of the northern side of the Eleventh Street Bridge, or any portion of the Rock Creek Park.

OPENING STATEMENT

HON. WALTER E. FAUNTROY
CHAIRMAN

SUBCOMMITTEE ON FISCAL AFFAIRS & HEALTH

OF
THE
COMMITTEE ON THE DISTRICT OF COLUMBIA

HEARING
ON

THE PROPOSED AMENDMENTS TO THE CONSTITUTION FOR THE STATE OF NEW COLUMBIA

MAY 22, 1985
9:30 A.M.

HEARING ROOM
1310 LONGWORTH HOB

TODAY'S HEARING IS THE FIRST OF THIS CONGRESS ON THE ISSUE OF STATEHOOD FOR THE CITIZENS OF THE DISTRICT OF COLUMBIA.

WE WILL HEAR FROM LOCAL GOVERNMENT OFFICIALS WHO WILL REACT TO THE RECOMMENDATIONS OF THE "STATEHOOD TASK FORCE," AN INFORMAL GROUP WHICH UNDERTOOK OVER A PERIOD OF NEARLY ONE YEAR TO PERFECT THE PROPOSED D.C. STATEHOOD CONSTITUTION. THE RESULTS OF THE WORK OF THE TASK FORCE ARE REFLECTED IN D.C. COMMITTEE PRINT NUMBER S-2.

THE GOAL OF THE TASK FORCE WAS TO TRY TO PRODUCE A DOCUMENT WHEREBY STATEHOOD WOULD BE THE ISSUE BEFORE THE CONGRESS AND NOT THE DOCUMENT ITSELF.

THE TASK FORCE ASSEMBLED COMMENTS FROM MEMBERS OF CONGRESS, WRITINGS FROM VARIOUS SECTORS OF THE COMMUNITY AND COMMENTS FROM DISTRICT OF COLUMBIA GOVERNMENT OFFICIALS. THE TASK FORCE ALSO MADE USE OF THE RECORD FROM THE FIRST HEARING ON STATEHOOD HELD DURING THE LAST CONGRESS. DURING THAT HEARING TESTIMONY WAS RECEIVED FROM KEY MEMBERS OF THE HOUSE AND SENATE. THE HEARING RECORD CAN BE FOUND IN COMMITTEE PRINT NUMBER 98-7.

DURING THE COURSE OF THEIR WORK, THE TASK FORCE CONSULTED WITH MANY EXPERTS. IN ADDITION, FROM TIME TO TIME, STAFF OF HOUSE AND SENATE MEMBERS WERE INVITED TO PARTICIPATE. EVERY EFFORT WAS MADE TO TAKE INTO ACCOUNT THE VIEWS OF A BROAD CROSS-SECTION OF THE CONGRESS, THE COMMUNITY AND INTERESTED PARTIES.

I BELIEVE THE CONSTITUTION, AS REVISED, IS NOW WORTHY OF SERIOUS CONSIDERATION BY THE CONGRESS.

HAVING THE BENEFIT OF A DETAILED COMPARATIVE ANALYSIS OF EACH PROVISION OF THE PROPOSED CONSTITUTION AND COMPARABLE OR SIMILAR PROVISIONS FROM STATE CONSTITUTIONS AND STATUTES, THE TASK FORCE ARRIVED AT THE OPINION THAT, ON THE WHOLE, THE DISTRICT'S CONSTITUTION WAS A SOUND, WELL-CONCEIVED DOCUMENT, WITH PROVISIONS NOT UNLIKE THOSE FOUND IN MANY STATES. CHANGES ARE PROPOSED TO ONLY FOUR OF THE EIGHTEEN ARTICLES, WITH MOST OF THE CHANGES BEING FOUND IN ARTICLE I, THE BILL OF RIGHTS SECTION.

MANY OF THE PROVISIONS WHICH WERE ROUNDLY CRITICIZED BY SOME CITIZENS AND MANY IN THE MEDIA, AS WELL AS THOSE PROVISIONS TARGETED BY MEMBERS OH THE CONGRESS, HAVE BEEN STRICKEN OR SIGNIFICANTLY MODIFIED.

THE RIGHT TO A JOB OR AN INCOME AT THE EXPENSE OF THE STATE AS FOUND IN ARTICLE I, SECTION 20, PERHAPS THE OBJECT OF MOST CRITICISM, IS STRICKEN. THE TASK FORCE TOOK INTO ACCOUNT THAT IN ARTICLE ELEVEN, SECTION 3 (A) AND (B), PROVISION IS MADE FOR UNEMPLOYMENT AND WORKERS COMPENSATION AS WELL AS PUBLIC SECTOR JOBS AND WELFARE.

THE PROHIBITION AGAINST A GRAND JURY ENGAGING IN SO-CALLED "FISHING EXPEDITIONS" WHICH APPEARS IN ARTICLE ONE, SECTION 8, AND WHICH WAS ALSO THE SUBJECT OF MUCH NEGATIVE COMMENTARY, IS STRICKEN. FORMER CHIEF JUDGE NEWMAN OF THE D.C. COURT OF APPEALS WAS AMONG THOSE ESPECIALLY DISTURBED BY THIS SECTION.

THE ABSOLUTE RIGHT TO STRIKE AMONG GOVERNMENT EMPLOYEES IN ARTICLE TWELVE, SECTION 1, IS MODIFIED TO CONFORM TO PROVISIONS IN OTHER STATES. THIS SECTION WAS A CAUSE FOR CONCERN AMONG MANY OF MY COLLEAGUES IN THE HOUSE.

THE WORDY, DETAILED, OVERREACHING PROVISION REGARDING SEARCHES AND SEIZURES BY LAW ENFORCEMENT OFFICIALS, IN ARTICLE ONE, SECTION 6, WHICH SENATOR SPECTER CRITICIZED AT LENGTH, IS SUBSTANTIALLY CHANGED. THE TASK FORCE TOOK THE LANGUAGE FROM THE FOURTH AMENDMENT OF THE U.S. CONSTITUTION AND ADDED LANGUAGE LIMITING GOVERNMENT WIRETAPS IN RESHAPING THIS SECTION.

DRAWING ON LANGUAGE PROPOSED BY MR. FRANK CARTER, FORMER DIRECTOR OF THE D.C. PUBLIC DEFENDER SERVICE, THE TASK FORCE TEMPERED ARTICLE ONE, SECTION 7, BY DISALLOWING DISCOVERY OF ALL EVIDENCE POSSESSED BY THE STATE AND GIVING REASONABLE ACCESS TO GOVERNMENT EVIDENCE FOR FAIR AND JUST PROSECUTIONS. IN THIS WAY, INNOCENT VICTIMS AND WITNESSES ARE SAFEGUARDED.

THE BAIL PROVISION FOUND AT ARTICLE ONE, SECTION 9, IS CHANGED TO ALLOW FOR PREVENTIVE DETENTION AS PROPOSED BY SENATOR SPECTER, IN SITUATIONS INVOLVING DANGEROUS CRIMINALS WHO HAVE COMMITTED SERIOUS CRIMES.

AND THE PROVISION WHICH MAKES THE GOVERNMENT THE LENDER OF LAST RESORT FOR ANYONE WANTING A LOAN IS MODIFIED SO THAT THE GOVERNMENT IS NOT BY LAW REQUIRED TO PROVIDE LOANS TO EVERYONE. THAT PROVISION IS FOUND IN ARTICLE EIGHT, SECTIONS 2 AND 3.

IN MAKING THESE AND OTHER CHANGES, THE TASK FORCE MADE EVERY EFFORT TO MAKE THE PROPOSED CONSTITUTION A "MORE PERFECT" DOCUMENT, PALATABLE TO THE CONGRESS, WITHOUT SACRIFICING THE ESSENCE OF THE DOCUMENT AND THE SPIRIT OF THE CONSTITUTIONAL CONVENTION.

WE OWE A SPECIAL DEBT TO THE MEMBERS OF THE TASK FORCE, WHO AS VOLUNTEERS, HAVE HELPED US TO TAKE AN IMPORTANT STEP ALONG THE PATH TOWARD STATEHOOD. OUR GRATITUDE MUST GO ESPECIALLY TO MR. CHARLES CASSELL AND MS. JOSEPHINE BUTLER, BOTH MEMBERS OF THE TASK FORCE WHO WE WILL HEAR FROM TODAY, AND TO JOSEPH SELLERS, WHOSE ROLE AS DIPLOMAT AND STATESMAN WAS VITAL TO THE WORK OF THE TASK FORCE, AND FINALLY TO CLINT HOCKENBERRY, WHOSE DETAILED RESEARCH WAS KEY TO THE EFFORT.

IT IS MY HOPE THAT THE WORK OF THE TASK FORCE, THIS HEARING AND FUTURE HEARINGS WE WILL HAVE, WILL POSTURE THIS COMMITTEE AND THE CONGRESS FOR A VOTE ON STATEHOOD IN THE NEAR FUTURE.

WE WILL HEAR FIRST FROM THE MAYOR OF THE DISTRICT OF COLUMBIA.

51-422 O—85——2

Mr. FAUNTROY. We owe a special debt of gratitude to the members of the task force who, as volunteers, have helped us to take an important step along the path toward statehood.

Our gratitude must go especially to Charles Cassell and Josephine Butler, both members of the task force, whom we will hear from today, and to Joseph Sellers, whose role as diplomat and statesman was vital to the work of the task force, and, finally, Clint Hockenberry, whose detailed research was key to the effort.

It is my hope that the work of the task force, this hearing, and future hearings that we intend to have will posture this committee and the Congress for a vote on statehood in the near future.

We turn now, happily, to our witnesses, and we will call first upon the distinguished chairman of the City Council of the District of Columbia, Hon. David A. Clarke.

Chairman Clarke, it's a real pleasure to have you before the District Committee on its first hearing on statehood in this Congress. We look forward to your testimony, and you may proceed in whatever manner you choose.

STATEMENT OF HON. DAVID A. CLARKE, CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. CLARKE. Thank you very much, Mr. Chairman.

I want to thank you for the invitation to appear before you today, and I also want to note that the council has not had time to institutionally review the proposed amendments, and therefore the comments which I offer today should be taken only as my own.

I want to thank you for the great effort which has gone into this project over the last year or so. You have held hearings, consulted your colleagues, formed a task force, and reviewed the proposal of the statehood convention in detail.

Your commitment to self-government is a continuing one and is very much appreciated. Those hearings and that task force have produced some notable changes.

I believe that the statehood convention worked exceedingly hard and in much too compressed a period of time. While there was disagreement within the convention, as could be expected, their product represented, for the most part, a very progressive outlook. However, progress sometimes comes slowly.

I want to commend particularly what you, Mr. Chairman, said was the theme of the present effort when, on May 13, 1985, and again today, you said, "My goal"—which was also the goal of the task force—"is to have a document whereby statehood is the issue, and not the document."

The changes which have been made mostly have been in this direction. Guaranteed right-to-work provisions and prohibitions against grand jury fishing expeditions express noble objectives but, embedded in a constitutional document, would have produced difficulties not only for the new State but also for those whose decision it is to admit New Columbia to statehood. It is indeed wise to eliminate these provisions.

Other provisions, like those requiring the publication of the names of confidential informant employees, were simply wrong in

the first place, and their elimination is also wise. All of these are steps in the right direction.

We must face the reality that America has not yet come of sufficient age that she is willing to afford to us the full rights of her citizenship or her Constitution, much less the rights which the convention's constitution would have granted.

I therefore urge that, whatever process you use, maximum flexibility be maintained in order to achieve statehood itself.

While I would not support just any amendment, for I would rather not create a State at all than create a repressive one, I would recommend that, in the consideration of further changes, the notion of conforming the bill of rights to the first 10 amendments of the U.S. Constitution be kept in mind.

Similarly, I would commend to your consideration structural provisions that reflect the State government similar to the present city government without the onerous aspects such as lack of budgetary and judicial autonomy and extended ineffectiveness of legislation.

In short, while the constitution should not be repressive, it should be sufficiently grounded in Federal and District experience that the forthcoming debates on statehood will have to focus on statehood itself, and our cause cannot be waylaid by those who would profess sympathy for our cause but inability to proceed because of this or that provision.

Thank you very much.

[The prepared statement of Mr. Clarke follows:]

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D. C. 20004

TESTIMONY OF

DAVID A. CLARKE
CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA

REGARDING PROPOSED AMENDMENTS TO THE DISTRICT OF COLUMBIA STATEHOOD CONSTITUTION

MAY 22, 1985

Mr. Chairman and members of the subcommittee, I want to thank you for the invitation to appear before you today. I also want to note that the Council has not had the time to institutionally review the proposed amendments and therefore the comments which I offer today should be taken only as my own.

I also want to thank you for the great effort which has gone into this project over the last year or so. You have held hearings, consulted your colleagues, formed a task force, and reviewed the proposal of the Statehood Convention in detail. Your commitment to self-government is continuing and appreciated. Those hearings and that task force have produced some notable changes.

I believe that the Statehood Convention worked exceedingly hard and in much too compressed a period of time. While there was disagreement within the Convention, as could be expected, their product represented, for the most part, a very progressive outlook. However, progress sometimes comes slowly, and I want to commend particularly what you, Mr. Chairman, said was the theme of the present effort when on May 13, 1985, you said "my goal, which was also the goal of the task force, is to have a document whereby statehood is the issue and not the document." (Emphasis in the original).

The changes which have been made have mostly been in this direction. Guaranteed right to work provisions and prohibitions against grand jury fishing expeditions expressed noble objectives but, embedded in a constitutional document, would have produced difficulties not only for the new state but also for those whose decision it is to admit New Columbia to statehood. It is indeed wise to eliminate these provisions. Other provisions, like those requiring the publication of the names of confidential informant-employees, were simply wrong in the first place, and their elimination is also wise. All of these are steps in the right direction.

We must face the reality that America has not yet come of sufficient age that she is willing to afford us the full rights of her citizenship or her constitution much less the rights which the Convention's constitution would have granted. I therefore urge that, whatever process you use, maximum flexibility be maintained in order to achieve statehood itself.

While I would not support just any amendment, for I would rather not create a state at all than to create a repressive one, I would recommend that, in consideration of further changes, the notion of conforming the bill of rights to the first ten amendments of the United States Constitution be kept in mind. Similarly, I would commend to your consideration structural provisions that reflect a state government similar to the present government without the onerous aspects such as the lack of budgetary and judicial autonomy and extended ineffectiveness of legislation.

In short, while the constitution should not be repressive, it should be sufficiently grounded in federal and District experience that the forthcoming debates on statehood will have to focus on statehood itself and our cause cannot be waylaid by those who would profess sympathy for our purpose but inability to proceed because of this or that provision.

Mr. FAUNTROY. I thank you, Chairman Clarke.

I do so appreciate the effort that you personally have put into preparing for testimony today, and I certainly understand, given the time that members of the council have had to review the task force report, that your testimony here today could not represent that of the entire council.

But you do have the advantage of having served on the commission itself and as its delegate to the convention, and, in that regard, I'd just like to ask several questions.

First, as you know, this proposed constitution calls for a unicameral legislature. As you may know also, only one State in the Union—Nebraska—has such a unicameral legislature. We now have a unicameral legislative body here in our council.

Has your experience with a single-bodied legislature proven a good one—I know you're not going to say bad—or do you think it's somewhat in between?

Mr. CLARKE. I have not had the experience of having served in a bicameral legislature. So my experience is somewhat one sided.

No, I don't see any difficulty with the unicameral legislature.

There is a provision within the constitutional document that provides for there to be a period of time intervening between the time that the legislature considers the matter on first reading and the time that the legislature is to consider the matter on second reading.

This provision was put into the city charter, and I believe it was put into the constitutional document, to assure two bites of the apple, something that is assured in a bicameral legislature.

My problems with the legislative session provision of the constitution do not go to that part of it.

Mr. FAUNTROY. I'm almost afraid to ask where they do go, but let me ask this.

Mr. CLARKE. You can if you want, but I don't know if you'd want to.

Mr. FAUNTROY. Would you be kind enough to share that with us?

Mr. CLARKE. I believe that the provision of, I think it's a 40-member—I don't have the document in front of me.

Mr. FAUNTROY. Forty-three.

Mr. CLARKE. Somewhere in the forties—all of whom shall be full-time, is onerous and is going to be quite costly to the city or, if it's not going to be costly to the city, is only going to allow for persons who have independent wealth to be able to serve.

Second, there is a section within the constitution, I believe—again, I'm speaking without it in front of me—that provides for a 90-day period of wait for the legislation to become effective. That we have currently with the 30-legislative-day review period.

The only benefit that 90-day period would provide against what we have now is the certainty of the number of days, but I don't see why the new State legislature should have to wait that long a period of time for its legislation to become effective.

Third, if there is a need to pass legislation on a one-reading basis, there's a requirement that the Governor certify to that need. Currently, the council is not required to wait until the Mayor certifies the need for emergency legislation; the council makes that determination.

I don't see why the new legislature ought to have that requirement placed upon it.

Without the document in front of me, those are three hesitations that I have with respect to the legislative article.

Mr. FAUNTROY. Let me say how much I appreciate that, because it does track with the experience that we've had in limited home rule, and we take those comments in good faith and rather seriously.

There is another similarity or difference between our present form and the constitution here recommended, whereby the president of the State legislature is to be elected from among the delegates, or the members of the house of delegates, whereas, as you know, our president here is popularly elected.

Would you care to comment on the fundamental change in the way things are now done in the District of Columbia?

Mr. CLARKE. There are benefits and detriments to either approach.

Certainly, I think, in the construction of a new government, the provision that the presiding officer be elected avoids the creation of factions within the new legislature.

Where the legislature has existed for some time and developed traditions, then I think that the election by its members of its presiding officer does give to that presiding officer some chips for him to preside with, and occasionally I have desired to have a few more chips to effect my presiding capabilities than I otherwise have.

Whoever is elected to preside is going to have to serve two constituencies, however. He or she is going to have to serve the constituency of the people as well as the constituency of the colleagues.

In that regard, I would note that none of the members of the proposed legislature are to have an at-large base, and certainly I would think whoever presides, whether chosen directly by the electorate or chosen by the members of the legislature itself, ought to have an at-large base in the community.

Mr. FAUNTROY. Are there sufficient checks and balances between the executive and the legislature branches in this proposed constitution?

Mr. CLARKE. I think in some respects the executive is stronger in the constitution than it is in the current law vis-a-vis the council, and one of them, of course, is that emergency session that I spoke of. Maybe the executive will like that.

I tend to like things more the way they are in terms of the ability to pass things on one reading, where the legislature itself makes the determination of the sufficient cause for that action being taken.

Mr. FAUNTROY. Finally, Chairman Clarke, you have suggested that we pay careful attention to the Bill of Rights itself in our U.S. Constitution. Are you suggesting that Bill of Rights be inserted in its entirety in our constitution and what we have there now simply be dropped?

Mr. CLARKE. I hesitate to use these words. The last time I did, I was taken over the coals by the local paper, but I certainly think it's an idea worthy of consideration.

There is a body of litigated opinion as to what the current Bill of Rights means, but I make the suggestion not because I think that any of the expansions or changes that are suggested by either the convention or in this document are bad but because I think it eliminates the arguments that can be made against statehood on the basis of some provision.

Now, I note that the antidiscrimination provision in the Bill of Rights differs in the categories that it prevents from the education provision later on in the document.

I note also that there is not allowed to be discrimination on the basis of citizenship in the new document.

Now, once before I suggested in the council, when I was a member—I had just been elected to represent ward 1, which had a large, and still has a large, Hispanic populace—that persons who didn't enjoy citizenship be permitted to vote in advisory neighborhood elections, because the advisory neighborhood commissioner's responsibilities are only advisory in character.

I was soundly defeated by a vote of 12 to 1, and there was quite a furor over my suggestion.

Well, I'd hate to see a provision such as that, that is in this document, be the hanging tree upon which people who profess sympathy for statehood and self-government could hang a no vote.

My suggestion that we model our bill of rights upon the Bill of Rights of the Federal Constitution is designed to eliminate those kinds of issues.

Once we're a State, we can form what we wish to in our bill of rights, just as our own Bill of Rights in our Nation has had some amendments to it over the course of the years, and our own experience will grow in our courts as it has in the Federal courts.

So I make the suggestion only as a practical one.

Mr. FAUNTROY. Thank you so very much, Chairman Clarke. Your comments have been perceptive and well taken by the committee, and we look forward to further hearings and thinking about the comments and suggestions you've made.

Mr. CLARKE. Thank you, sir.

Mr. FAUNTROY. Thank you so very much.

We've been joined now by the distinguished Mayor of the District of Columbia, Hon. Marion S. Barry, Jr., whom we now invite to the witness table.

As the Mayor comes forward, I do want to note that in the world community, Mayor Barry, the United States now stands alone on the question of representation on the part of the citizens of their Federal District or Capital.

As we consider this question of statehood for the people of Washington, DC, I think it's important to note that the United States is the only Nation in the world with a representative, democratic Constitution that denies participation in the National Legislature for its citizens in its Capital.

Just 2 weeks ago, the Congress of Brazil unanimously approved a provision which, among other things, provides that the citizens of its capital city, Brasilia, will be represented in Congress for the first time.

As a result of Brazil's action, the United States now stands entirely alone in the world community on the question of whether or

not residents of their capital shall be represented in their national legislature.

Even the Soviet Union and South Africa provide participation for national representation in their legislatures for citizens in their capital areas, although, as we know in South Africa, that's a very limited number of citizens.

At the table, I have provided a listing showing the experiences of some 113 nations that provide representation for their capital city residents in their national legislature.

[The listing follows:]

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House of Representatives
Washington, D.C. 20515

COMMITTEES
DISTRICT OF COLUMBIA
SUBCOMMITTEE
CHAIRMAN, FISCAL AFFAIRS AND HEALTH

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
SUBCOMMITTEE
CHAIRMAN, DOMESTIC MONETARY POLICY

SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

May 22, 1985

IN THE WORLD COMMUNITY --- THE UNITED STATES STANDS ALONE

Dear Colleague:

The United States is the only Nation in the world with a representative, democratic constitution, that denies voting representation in the national legislature to the citizens of its capital.

On May 8th, the Congress in Brazil unanimously approved a constitutional amendment which, among other things, provides that the citizens of its capital city, Brasilia, will be represented in the Congress for the first time. As a result of Brazil's action, the United States now stands entirely alone in the world community on the matter of representation to the citizens of our capital, Washington, D.C.

Even the Soviet Union and South Africa provide for representation in their national legislatures of citizens residing in their capital areas (see below).

The vast majority of nations in the world community with national legislatures do not discriminate against residents of the capital city with respect to representation in the legislature. In these nations the citizens of the capital are represented in the national legislature in the same way that all other citizens of the nation are represented. Thus, the citizens of London have voting representation in the British Parliament, and the citizens of Paris have voting representation in the National Assembly of France.

Seventeen nations in the world community are federations (that is, they have a federal constitution and a federal system of government): Argentina, Australia, Austria, Brazil, Cameroon, Canada, India, Malaysia, Mexico, Nigeria, Pakistan, Switzerland, the Soviet Union, the United States, Venezuela, West Germany and Yugoslavia. Of obvious note among these nations is the Soviet Union, in which residents of Moscow are represented in the national legislature.

Only one of these federal nations - the United States - denies the citizens of the capital city the right to representation in the national legislature. In fact, many federal nations that extend the rights of representation to the residents of the capital have molded their governments after our own. Yet, on this basic issue of representation, they have taken the lead and surpassed us.

Six of these federal nations have actually adopted the United States constitutional concept of a separate federal capital city under national jurisdiction: Argentina (Buenos Aires), Australia (Canberra), Brazil (Brasilia), India (New Delhi), Mexico (Mexico City), and Venezuela (Caracas).

Two other examples are instructive: Canberra was accorded full representation in the Australian Parliament in 1967, after it was determined that the capital had a significant permanent resident population; Canberra, like the District of Columbia, was a planned city, built on land that was largely uninhabited. Mexico City was given full voting representation in 1928, only a few years after the ratification of the Mexican Constitution.

If this glaring deficiency in our democracy concerns you, kindly call Johnny Barnes at 225-8050 and co-sponsor H.R. 325, a bill which provides for statehood for the citizens of Washington, D.C., including full representation in Congress.

Sincerely,

WALTER E. FAUNTROY
Member of Congress

EXPERIENCE OF FOREIGN NATIONS WITH ELECTED NATIONAL LEGISLATURES

A. Nations that exclude their capital cities from representation in their legislatures:

- United States (Washington, D.C.)

B. Nations that grant representation to their capital city in their legislatures:

1. Albania (Tirana)
2. Algeria (Algiers)
3. Andorra (Andorra la vella)
4. Antigua (St. Johns)
5. Argentina (Buenos Aires)
6. Australia (Canberra)
7. Austria (Vienna)
8. The Bahamas (Nassau)
9. Barbados (Bridgetown)
10. Belgium (Brussels)
11. Belize (Belmopan)
12. Botswana (Gaborone)
13. Bulgaria (Sofia)
14. Burma (Rangoon)
15. Cambodia (Phnom-Penh)
16. Cameroon (Yaounde)
17. Canada (Ottowa)
18. Cape Verde Islands (Praia)
19. China, Republic of (Taipei)
20. Colombia (Bogota)
21. Cook Islands (Rarotonga)
22. Costa Rica (San Jose)
23. Cyprus (Nicosia)
24. Czechoslovakia (Prague)
25. Denmark (Copenhagen)
26. Djibouti (Djibouti)
27. Dominica (Roseau)
28. Dominican Republic (Santo Domingo)
29. Egypt (Cairo)
30. El Salvador (San Salvador)
31. Equatorial Guinea (Malabo)
32. Fiji (Suva)
33. Finland (Helsinki)
34. France (Paris)
35. Gabon (Libreville)
36. The Gambia (Bajul)
37. Germany, East (Berlin)
38. Germany, West (Bonn)
39. Greece (Athens)
40. Granada (St. George's)
41. Guatemala (Guatemala City)
42. Guinea (Conakry)
43. Guyana (Georgetown)
44. Haiti (Port-au-Prince)
45. Hungary (Budapest)
46. Iceland (Reykjavik)
47. India (New Delhi)
48. Indonesia (Jakarta)
49. Iran (Teheran)
50. Ireland (Dublin)
51. Israel (Jerusalem)
52. Italy (Rome)
53. Ivory Coast (Abidjan)
54. Jamaica (Kingston)
55. Japan (Tokyo)
56. Kenya (Nairobi)
57. Korea, North (Pyongyang)
58. Liberia (Monrovia)
59. Liechtenstein (Vaduz)
60. Luxembourg (Luxembourg-ville)
62. Macao (Macao)
63. Madagascar (Antananarivo)
64. Malawi (Lilongwe)
65. Malaysiz (Kuala Lumpur)
66. Maldives (Male)
67. Malta (Valletta)
68. Mauritania (Nouakchott)
69. Mauritius (Port Louis)
70. Mexico (Mexico City)
71. Monaco (Monaco-Ville)
72. Mongolia (Ulan Bator)
73. Morocco (Rabat)
74. Nauru (Yeran: Administrative Dist)
76. Netherlands (Amsterdam)
77. New Zealand (Wellington)
78. Nicaragua (Managua)
79. Nigeria (Lagos)
80. Norway (Oslo)
81. Pakistan (Islamabad)
82. Panama (Panama City)
83. Papua New Guinea (Port Moresby)
84. Paraguay (Asuncion)
85. Philippines (Manila)
86. Poland (Warsaw)

EXPERIENCE OF FOREIGN NATIONS WITH
ELECTED NATIONAL LEGISLATURES CONTINUED

87. Portugal (Lisbon)
88. Rhodesia (Salisbury)
89. Romania (Bucharest)
90. San Marino (San Marino)
91. Senegal (Dakar)
92. Sierra Leone (Freetown)
93. Singapore (Singapore City)
94. South Africa (Pretoria)
95. Soviet Union (Moscow)
96. Spain (Madrid)
97. Sri Lanka (Columbo)
98. Surinam (Paramaribo)
99. Sweden (Stockholm)
100. Switzerland (Bern)
101. Syria (Damascus)
102. Tanzania (Des es Salaam)
103. Tonga (Nukualofa)
104. Trinidad and Tabago (Port of Spain)
105. Turkey (Ankara)
106. United Kingdom (London)
107. Venezuela (Caracas)
108. Vietnam (Hanoi)
109. Western Samoa (Apia)
110. Yugoslavia (Belgrade)
111. Zaire (Kinshasa)
112. Zambia (Lusaka
113. Brazil (Brasilia)

Mr. FAUNTROY. Mr. Mayor, we are so pleased to have you before the committee as we open the quest for statehood for New Columbia in the 99th Congress. We have eagerly awaited your testimony. We have it. You may proceed in whatever manner you choose.

STATEMENT OF HON. MARION S. BARRY, MAYOR OF THE DISTRICT OF COLUMBIA, ACCOMPANIED BY GARLAND PINKSTON, ASSISTANT DIRECTOR, OFFICE OF INTERGOVERNMENTAL RELATIONS

Mayor BARRY. Mr. Chairman, let me express my great delight and pleasure to appear before you today to speak on the important issue of statehood for the District of Columbia and proposed amendments to the constitution under which the residents of New Columbia would live.

As I have listened to your comments about Brazil being one of two nations having now rectified themselves, it was interesting to note that, as I talk to mayors from around the world that come in to see me, from Paris, London, Bonn, and other places, they're just amazed that the residents of the District of Columbia don't have voting representation in our National Legislature. It takes me some time to explain that, particularly if it's a mayor who speaks a different language than English and I don't understand it; it means that it takes twice as long because it has to be interpreted. But they're just really flabbergasted that this country, as powerful and as democratically oriented as it is supposed to be, would still subject those of us in the District to that kind of taxation without representation.

So I'd just like to add our experience to that.

Mr. Chairman, let me first of all commend you for your leadership in the Congress on this issue. You have done an outstanding job of trying to focus the supporters of statehood to look at those amendments that prove to be either philosophically or politically impossible to get through, and you've given untiringly of yourself to this.

At the same time, you've followed other legislation affecting the District. In other words, you've just been exemplary in your determination to get us full freedom in the District, and I want the record to show that.

I also want to applaud the statehood partnership committee and its task force for its work in furthering the hope for and the chances of statehood for the District of Columbia.

I have at the table with me Garland Pinkston, who is the deputy director for the office of intergovernmental relations for the District of Columbia, and he has followed this process and been involved with the task force.

Mr. Chairman, we don't have to reiterate that our residents bear every burden of citizenship. We pay more taxes per capita than every State except one in the Nation. We serve with distinction in the military, we contribute to the national economy, we produce some of the most outstanding individuals in America whose accomplishments add to America's greatness and its glory.

For instance, Col. Frederick Gregory's flight into space is just one example of a long tradition of achievements by D.C. residents,

either those who were born here or who came here and have achieved while here.

Yet, all of these great Americans, as we very well know, continue to be denied the full enjoyment of American democracy.

Mr. Chairman, it seems to me that, lacking full statehood and full right of participation, it may not be a bad idea, as we work toward statehood, to maybe urge the Congress to exempt us from the Federal income tax.

Mr. FAUNTROY. That's right.

Mayor BARRY. As are the people of Puerto Rico.

We do not like having no vote, but at least we would not be paying not to vote, and I kind of like that idea as an interim measure as we move toward full statehood; it's an idea whose time has come. I don't like to pay the bill, yet not be able to have anything to say about what happens to the money that I pay. I think that's the attitude of the citizens of the District of Columbia.

But more importantly, in addition to taxes, there is a lot of national legislation that affects us. As the Congress debates this $200 billion deficit and a plan to reduce it, it affects us in all aspects of our lives. What happens in the military budget affects us in the sense that we are probably at ground zero in terms of any nuclear attack. So we need to have this voice.

I'd like to just enter my statement for the record, because we could continue to talk about that, but we really are preaching to the saved when we preach to you. I just hope the 435 voting Members of the House will continue to get this message that we ought to have the right to govern ourselves—a commitment to democratic freedoms—as anyone else.

Mr. Chairman, let me speak briefly to some of the proposed amendments here.

Notwithstanding its imperfections, I voted for the constitution, even though it had some provisions in it that went beyond what I thought was philosophically or practically possible. I was so anxious to vote for any constitution which gave us any rights that the imperfections did not outweigh the perfections in it, and so I campaigned, as you know, for the constitution.

In the meantime, though, you have done an outstanding job, and the task force, in trying to at least clarify or modify some parts of it.

Also, we certainly want to commend Councilwoman Mason, Ms. Butler, and Charlie Cassell, and others who, a long time ago, recognized the need to push us toward statehood.

In my view, unless some changes are made, we will give those opponents of statehood feeble excuses as to why they won't vote for it, and so we ought to look at the reality of what we are faced with.

The same political dilemma faced us in 1973 when the debate was going on around the proposed home rule bill, and so it's not unusual that you have debates around some parts of a bill or constitution.

Mr. Chairman, let me deal with the right-to-a-job clause, article 1, section 20. It's a provision that gives us some difficulty.

Let me say that I believe fundamentally that every American citizen who wants to work ought to either have a job or job training

or income, but I don't think that philosophy ought to be incorporated in the constitution itself.

No jurisdiction has ever been more aggressive or more compassionate than the District in providing food, health care, clothing, shelter, and other necessities to those who have nowhere else to turn.

We are concerned, though, that a constitutional right to a job would call out to the needy of America and increase our public assistance expenditures to intolerable levels.

It seems to me that if we're going to have that in the constitution, every State ought to also have such a provision, which means that we're then not swamped with people from Virginia, Maryland, and everywhere else, seeking a job because it's guaranteed, and I believe that every American ought to have a job.

So I put it in that context of other States don't have it, and therefore it would place an undue burden, we think, on the taxpayers of the District of Columbia.

Also, Mr. Chairman, another provision, article 8, section 3, requires the house of delegates to establish a State economic development bank with the primary responsibility of providing loans to those persons and businesses who are otherwise unable to obtain them.

Again, Mr. Chairman, I believe very strongly that there ought to be revolving loan funds; ought to be economic development banks; there ought to be a range of opportunities for business people to go to, to get help. And again, I don't think any city has been more aggressive in trying to help the small and minority business person than the D.C. government.

Again, Mr. Chairman, the constitution is a sacred document. It's a document that should be cherished. It's a document that becomes the fundamental body of law for a nation or a state, and once that's written, the potential expenditures on this constitution, again, are virtually limitless. It almost guarantees a loan to anyone who has not been able to get one some other place, notwithstanding whether or not that business proposition has any chance at all of possibly succeeding.

Again, I put it in the context that we ought to help every resident and give him or her as many opportunities as we can, but I don't think the constitution is the place where that happens, because the taxpayers should not be lenders of last resort.

Also, Mr. Chairman, even though some of us have our own personal views about the right of a woman to decide what she does with her body in terms of being prochoice—and I'm personally a prochoice person in terms of my mayoral responsibility, and I also support that as an individual.

I also support the right to noncommercial, private, consentual sexual behavior of adults; that's their business, not mine.

But, again, I think this would unduly detract from the discussion of statehood if it were put into the constitution of this New Columbia.

Again, I think opponents would use this as a feeble excuse to fight the entire issue of statehood. Even though many of us, as I said earlier, privately and publicly, believe in these two matters,

we think these deletions ought to happen. It would refocus the debate.

Mr. Chairman, you remember the discussion around the sexual assault bill. That bill paralleled more than a dozen States' laws. Some of the same representatives of those States that lived under similar legislation used the sexual assault bill as an attack on gays and an attack on everybody, and, again, we weren't able to muster the support to counteract that because it was a red herring. We don't want this to become a red herring in a very serious discussion of a serious matter.

A State system of criminal justice is critical to the protection of those who come in contact with it and those who do not. The task force recommendations improve the balance of justice in the constitution between the rights of criminal defendants and the rights of the community at large while preserving the essential protections for the accused.

Mr. Chairman, also, article 1, section 7, right of arrestees and defendants—the task force recommendations narrow the scope of criminal discovery from all evidence possessed by the State to that evidence which is necessary to a fair trial—that is, all evidence possessed by the State which may have a tendency to prove guilt or innocence.

At the same time, the amendment establishes a requirement that the State release pertinent information to a defendant within a reasonable period of time.

Section 9, relating to the bill, has been criticized as prohibiting under all circumstances also preventive detention of persons charged with serious crimes.

The proposed amendment eliminates that prohibition, while reaffirming the principle that reasonable bail should be the rule, not the exception, for pretrial release of persons charged with a crime.

Three words, Mr. Chairman, added to sections 10 and 16 of article 1, further exemplify the balance achieved to the amendments in the criminal justice provisions.

In section 10, trial by jury, the addition of two more words guarantees that criminal defendants are tried by an impartial jury.

In section 16, abolition of common law criminal offenses, it is clarified that the legislature needs only define crimes with reasonable specificity to protect against the acquittal of criminals because of technical defects in the drafting of the law.

Mr. Chairman, these amendments, I believe, would improve the administration of justice and enhance the rights of criminal defendants.

Also, Mr. Chairman, in the area of article 12, section 1, labor, article 12 establishes a constitutional basis for the rights of workers to organize, bargain collectively, and provide for their general welfare.

I strongly support these rights for these workers. In fact, Mr. Chairman, 99.9 percent of all the workers who are eligible to be organized in the D.C. government are now represented by labor unions.

We have finished a round of collective bargaining with our unions, and we think we've come to a fair and equitable settlement for the next 3 years, even though I'm not prepared to comment on

what we'll do with the situation with our police. We're not exactly happy about that process. We think people ought to just bargain, as opposed to three people who really don't have to bear the burdens of their decisions making decisions for the labor movement or for the city.

So we strongly support the well-being—the physical and economic well-being—of our workers. We support safe and sanitary working conditions for all of our workers. No one should have to work in conditions similar to the sweatshops of the 1930's and be abused, as coal miners were, by the owners of those mines, or the textile workers being abused, as has been evidenced, by some of the firms in North Carolina and others. So we commit ourselves to that.

Mr. Chairman, we do have a serious problem with the right of public employees to strike.

Quite frankly, I don't think the amendments as proposed by the task force go far enough. They allow the legislature to determine what functions are absolutely essential for the well-being and survival of the residents of our city.

My own view is that every function is essential. If it's not essential, we shouldn't have it there. Every person's job is important. If it's not important, we should not have that job there.

I've said this to my labor friends and others in organized labor, that I don't support the right of any D.C. government employee to strike. I support collective bargaining, I support all the other kinds of things that go with it, but we stop short.

So I don't think the amendments go far enough, quite frankly, in allowing any employee to strike, because I think that creates undue burdens on the residents who depend on these employees for services.

We all make the decision to become public servants. It seems to me we then have to make a decision that we're going to use the recognized collective bargaining process and other means of getting our rights and protections, but I don't think we ought to allow any D.C. government employees or employees of the State of New Columbia to strike, for they all are essential.

That's sort of a departure from some of my friends on the task force, but from time to time I do take a point of departure, because I've had to experience the possibility of strikes, and I know the burden it puts on the Governor or the State legislature or, more importantly, the burden it puts on the citizens to be deprived of essential services.

I can't think of any services, as I said earlier, that are not essential, and maybe during the course of this hearing someone can define for me what's not essential. I've not yet been able to find a nonessential job or nonessential functions.

Now, I have found a few employees who are not quite carrying out those essential functions, but that should not detract from the goal here of making sure that everybody is served.

So, Mr. Chairman, I believe that we have come a long way in modifying and clarifying a part of what the new constitution should look like.

I believe that we should move ahead to examine and deliberate on these amendments before finally deciding on a course of action for final adoption by our citizens; the primary obstacles to state-

hood for the District lie not with our citizens but here in the halls of Congress.

Our citizens should not have to bear the burden of our arguments around statehood, and therefore we should face the toughest challenge before asking our residents for their approval.

In conclusion, Mr. Chairman, the amendments proposed by the task force reflect a reasoned and restrained effort to respond to serious practical and political criticisms of the constitution. It is important to note that the basic components of government and the essential freedoms and protections remain unchanged.

Even with these proposed changes, Mr. Chairman, in reading the constitutions of other States of the United States, we find that this constitution will be the most progressive, the most innovative constitution of any. On the other hand, it also contains the basic rights that all State constitutions contain.

We are a democratic society. We should be able to have our say in how our government is run and how our National Government is run.

There are those who say these amendments do not go far enough. I have indicated one area where they don't go far enough, but that was not the major point. Then there are others who say they go too far.

It is impossible to satisfy everyone with a document so important as the constitution. What we ought to do here is a balance. There has been a serious attempt at conciliation and accommodation in the task force's efforts.

Again, I'd like to commend you and the members of the task force for their hard work, for the other Congress Members who have assisted in giving their views as to what bothers them and what doesn't bother them, to give us a fairly realistic analysis of what our chances are of adopting statehood in this Congress.

I am convinced that, with the kind of changes that are being proposed, with the continuing hard work on your part and others who support us, we can get statehood through this session of the Congress, and we ought to make that push to do so.

In my view, Mr. Chairman, if you don't get into the race, you surely can't win it. But if you get in it, you might win it, so let's get into the race for statehood.

Thank you very, very much.

[The prepared statement of Mayor Barry follows:]

STATEHOOD AND PROPOSED AMENDMENTS

TO THE CONSTITUTION OF NEW COLUMBIA

TESTIMONY OF

MARION BARRY, JR.

MAYOR OF THE DISTRICT OF COLUMBIA

BEFORE THE SUBCOMMITTEE ON

FISCAL AFFAIRS AND HEALTH

HOUSE DISTRICT COMMITTEE

MAY 21, 1985

MR. CHAIRMAN, AND MEMBERS OF THE SUBCOMMITTEE, IT IS A PLEASURE TO APPEAR BEFORE YOU TODAY TO SPEAK ON THE IMPORTANT ISSUE OF STATEHOOD FOR THE DISTRICT OF COLUMBIA, AND PROPOSED AMENDMENTS TO THE CONSTITUTION UNDER WHICH THE RESIDENTS OF NEW COLUMBIA WOULD LIVE. LET ME FIRST COMMEND YOU FOR YOUR LEADERSHIP IN THE CONGRESS ON THIS ISSUE. IT IS MY HOPE THAT TODAY'S HEARING, AND OTHERS WHICH I UNDERSTAND ARE TO FOLLOW, WILL CAUSE CONGRESS, AND ITS CONSTITUENTS, TO REEXAMINE THE INJUSTICE OF THE PARTIAL DEMOCRACY UNDER WHICH WE LIVE. I ALSO WANT TO APPLAUD THE STATEHOOD PARTNERSHIP COMMITTEE AND ITS TASK FORCE, FOR ITS WORK IN FURTHERING THE HOPE AND THE CHANCES OF STATEHOOD FOR THE DISTRICT.

NOWHERE IN THIS GREAT LAND ARE THERE AMERICANS WHO ARE ANY MORE "AMERICAN" THAN HERE IN THE DISTRICT OF COLUMBIA. OUR RESIDENTS BEAR EVERY BURDEN OF CITIZENSHIP - WE PAY MORE THAN OUR SHARE OF FEDERAL INCOME TAXES, WE SERVE WITH DISTINCTION IN THE MILITARY, WE CONTRIBUTE TO THE NATIONAL ECONOMY, AND WE PRODUCE OUTSTANDING INDIVIDUALS WHOSE ACCOMPLISHMENTS ADD TO AMERICA'S GLORY. COLONEL FREDERICK GREGORY'S FLIGHT INTO SPACE IS THE MOST RECENT IN A LONG TRADITION OF ACHIEVEMENTS FOR THOSE WHO BY BIRTH OR OTHERWISE CALLED THE DISTRICT OF COLUMBIA HOME. YET WE CONTINUE TO BE DENIED THE FULL ENJOYMENT OF AMERICAN DEMOCRACY.

OUR FAILURE TO ACHIEVE THE RIGHTS OF FULL CITIZENSHIP STEMS NOT FROM A LACK OF WILL OR EFFORT; OUR CITIZENS HAVE, IN JUST ONE GENERATION, WON SIGNIFICANT GAINS TOWARD SELF-DETERMINATION. IN THAT SHORT TIME, WE HAVE ADVANCED FROM AN APPOINTED COMMISSIONER FORM OF GOVERNMENT, TO AN APPOINTED MAYOR AND COUNCIL FORM, TO THE HISTORIC "HOME RULE" CHARTER UNDER WHICH WE NOW GOVERN. THAT SAME COMMITMENT TO DEMOCRATIC FREEDOMS LED THE CITIZENS OF THE DISTRICT TO FIGHT FOR REPRESENTATION IN CONGRESS, AND, I MIGHT ADD, THEN ELECT AND RE-ELECT YOU AS THEIR REPRESENTATIVE. IT ALSO INSPIRED THE STRUGGLE FOR FULL VOTING REPRESENTATION IN THE CONGRESS, A BATTLE WHICH, FOR NOW, APPEARS LOST.

STATEHOOD, THEN, IS THE CULMINATION OF OUR QUEST FOR FULL CITIZENSHIP. STATEHOOD IS THE HIGHEST FORM OF DEMOCRACY THIS COUNTRY HAS TO OFFER. TO ACHIEVE THAT GOAL, THE RESIDENTS OF THE DISTRICT ELECTED DELEGATES WHO LABORED DURING 90 HARD DAYS TO DEVELOP A CONSTITUTION, WHICH WAS APPROVED BY A MAJORITY OF THE VOTERS IN A REFERENDUM IN NOVEMBER 1982 AND SUBMITTED TO THE CONGRESS FOR ITS CONSIDERATION IN SEPTEMBER 1983.

NOTWITHSTANDING ITS IMPERFECTIONS, THE CONSTITUTION OF NEW COLUMBIA EXALTS INDIVIDUAL LIBERTIES, AND PROVIDES FOR A DEMOCRATIC GOVERNMENT WHICH WOULD PROTECT ITS CITIZENS AND PROVIDE FOR THEIR WELFARE. IN THESE IMPORTANT RESPECTS IT IS A CONSTITUTION THAT EMBODIES THE BEST OF AMERICA.

UNFORTUNATELY, IT IS THE IMPERFECTIONS OF THE PROPOSED CONSTITUTION AND NOT THE JUSTNESS OF STATEHOOD WHICH HAVE BECOME THE FOCUS OF THE DEBATE. FOR THOSE WHO OPPOSE STATEHOOD FOR THE DISTRICT, A CONSTITUTIONAL "RIGHT TO ABORTION" IS A POTENT WEAPON IN THE CURRENT POLITICAL CLIMATE. EVEN MANY WHO SUPPORT STATEHOOD HAVE GENUINE AND SERIOUS RESERVATIONS ABOUT THE VIABILITY OF A CONSTITUTIONAL "RIGHT TO A JOB."

IT BECAME APPARENT TO ME, AS IT DID TO YOU, CHAIRMAN CLARKE, COUNCILMEMBER MASON, AND OTHERS, THAT THERE WAS LITTLE CHANCE OF ATTAINING STATEHOOD, UNLESS SOME CHANGES WERE MADE IN THE PROPOSED CONSTITUTION. RECOGNIZING THAT STATEHOOD IS AS MUCH A POLITICAL PROCESS AS IT IS A DEMOCRATIC PROCESS, I EMBRACED THE STATEHOOD PARTNERSHIP INITIATIVE IN THE BELIEF THAT OUR RESIDENTS CHERISH MOST THE RESPONSIBILITIES AND REWARDS OF STATEHOOD AND WERE NOT WEDDED TO EACH SPECIFIC PROVISION OF THE PROPOSED CONSTITUTION.

THE AMENDMENTS PROPOSED BY THE STATEHOOD PARTNERSHIP TASK FORCE SHOULD GO A LONG WAY TOWARD QUELLING THE CONTROVERSY SURROUNDING THE CONSTITUTION, WITHOUT UNDERMINING ITS ESSENTIAL LIBERTIES AND PROTECTIONS. THE PROPOSALS DELETE FROM THE CONSTITUTION SEVERAL PROVISIONS WHICH ARE PROBABLY UNWISE, CERTAINLY UNWORKABLE AND WHICH UNNECESSARILY INFLAMED THE OPPOSITION TO STATEHOOD.

THE "RIGHT TO A JOB" CLAUSE (ARTICLE I, SEC. 20) IS ONE SUCH PROVISION. NO JURISDICTION HAS BEEN MORE AGGRESSIVE OR COMPASSIONATE THAN THE DISTRICT IN PROVIDING FOOD, HEALTHCARE, CLOTHING, SHELTER AND OTHER NECESSITIES TO THOSE WHO HAVE NO WHERE ELSE TO TURN. BUT, WE ARE CONCERNED THAT A CONSTITUTIONAL "RIGHT TO A JOB" WOULD CALL OUT TO THE NEEDY OF AMERICA, AND INCREASE OUR PUBLIC ASSISTANCE EXPENDITURES TO INTOLERABLE LEVELS.

ANOTHER SUCH PROVISION IS FOUND IN ARTICLE VIII, SEC. 3. IT REQUIRES THE HOUSE OF DELEGATES TO ESTABLISH A STATE ECONOMIC DEVELOPMENT BANK, WITH THE "PRIMARY RESPONSIBILITY" OF PROVIDING LOANS TO THOSE PERSONS AND BUSINESSES WHO ARE OTHERWISE UNABLE TO OBTAIN THEM. THE POTENTIAL EXPENDITURES UNDER THIS CONSTITUTIONAL PROVISION ARE VIRTUALLY LIMITLESS. THERE IS A NEED FOR GOVERNMENT SPONSORED LOANS TO INDIVIDUALS AND BUSINESSES. I AM PROUD OF MY ADMINISTRATION'S RECORD IN PROVIDING FINANCIAL AND TECHNICAL ASSISTANCE TO IMPROVE HOUSING AND ECONOMIC DEVELOPMENT OPPORTUNITIES FOR THE RESIDENTS OF THE DISTRICT. BUT I SUPPORT THE PROPOSED AMENDMENT TO THIS SECTION BECAUSE IT RECOGNIZES THE ROLE OF GOVERNMENT IN PROVIDING FINANCIAL ASSISTANCE TO ITS CITIZENS, WITHOUT MANDATING THAT THE GOVERNMENT, AND THUS THE TAXPAYERS, BE LENDERS OF LAST RESORT.

OTHER PROVISIONS WHICH THE TASK FORCE PROPOSES TO AMEND, SUCH AS THE "RIGHT TO ABORTION," AND THE "RIGHT TO NON-COMMERCIAL, PRIVATE, CONSENSUAL, SEXUAL BEHAVIOR OF ADULTS," HAVE EVOKED OPPOSITION WHICH UNDULY DETRACTED FROM THE DISCUSSION OF STATEHOOD. THESE DELETIONS SHOULD HELP REFOCUS THE DEBATE. SEVERAL OF THE PROPOSED AMENDMENTS RESPOND TO SEVERE CRITICISMS OF SOME OF THE CRIMINAL JUSTICE PROVISIONS IN THE CONSTITUTION. A STATE'S SYSTEM OF CRIMINAL JUSTICE IS CRITICAL TO THE PROTECTION OF THOSE WHO COME IN CONTACT WITH IT, AND THOSE WHO DO NOT. THE TASK FORCE RECOMMENDATIONS IMPROVE THE BALANCE OF JUSTICE IN THE CONSTITUTION BETWEEN THE RIGHTS OF CRIMINAL DEFENDANTS AND THE RIGHTS OF THE COMMUNITY-AT-LARGE, WHILE PRESERVING ESSENTIAL PROTECTIONS FOR THE ACCUSED.

FOR EXAMPLE, IN ARTICLE I, SECTION 7, RIGHTS OF ARRESTEES AND DEFENDANTS, THE TASK FORCE RECOMMENDATION NARROWS THE SCOPE OF CRIMINAL DISCOVERY (FROM "ALL EVIDENCE POSSESSED BY THE STATE") TO THAT WHICH IS NECESSARY TO A FAIR TRIAL: THAT IS "ALL EVIDENCE POSSESSED BY THE STATE WHICH MAY HAVE A TENDENCY TO PROVE GUILT OR INNOCENCE." AT THE SAME TIME, THE AMENDMENT ESTABLISHES THE REQUIREMENT THAT THE STATE RELEASE PERTINENT INFORMATION TO A DEFENDANT WITHIN A "REASONABLE" TIME BEFORE TRIAL. SECTION 9, RELATING TO BAIL, HAS BEEN CRITICIZED AS PROHIBITING UNDER ALL CIRCUMSTANCES "PREVENTIVE DETENTION" OF PERSONS CHARGED WITH

SERIOUS CRIMES. THE PROPOSED AMENDMENT ELIMINATES THAT PROHIBITION, WHILE REAFFIRMINING THE PRINCIPLE THAT REASONABLE BAIL SHOULD BE THE RULE AND NOT THE EXCEPTION FOR PRE-TRIAL RELEASE OF PERSONS CHARGED WITH CRIMES.

THREE WORDS ADDED TO SECTIONS 10 AND 16 OF ARTICLE I, FURTHER EXEMPLIFY THE BALANCE ACHIEVED IN THE AMENDMENTS TO THE CRIMINAL JUSTICE PROVISIONS. IN SEC. 10, TRIAL BY JURY, THE ADDITION OF TWO WORDS GUARANTEES THAT CRIMINAL DEFENDANTS ARE TRIED BY "AN IMPARTIAL" JURY. IN SEC. 16, ABOLITION OF COMMON LAW CRIMINAL OFFENSES, IT IS CLARIFIED THAT THE LEGISLATURE NEED ONLY DEFINE CRIMES WITH "REASONABLE" SPECIFICITY, TO PROTECT AGAINST ACQUITTALS OF CRIMINALS BECAUSE OF TECHNICAL DEFECTS IN THE DRAFTING OF THE LAW. THESE AMENDMENTS, I BELIEVE, WILL IMPROVE THE ADMINISTRATION OF JUSTICE AND ENHANCE THE RIGHTS OF CRIMINAL DEFENDANTS.

LASTLY, LET ME SPEAK OF THE AMENDMENTS PROPOSED FOR ARTICLE XII, SECTION 1, LABOR. ARTICLE XII ESTABLISHES A CONSTITUTIONAL BASIS FOR THE RIGHTS OF WORKERS TO ORGANIZE, BARGAIN COLLECTIVELY, AND TO PROVIDE FOR THEIR GENERAL WELFARE. I STRONGLY SUPPORT THESE RIGHTS FOR OUR WORKERS. THIS ARTICLE ALSO HAS IMPORTANT PROVISIONS WHICH PROMOTE THE PHYSICAL AND ECONOMIC WELL-BEING OF OUR WORKERS. THE TASK FORCE HAS WISELY LEFT THESE PROTECTIONS UNCHANGED.

ONE PROVISION OF ARTICLE XII HAS BEEN SEVERELY CRITICIZED AS ESTABLISHING A FAR-REACHING RIGHT OF ALL PUBLIC EMPLOYEES TO STRIKE. THE PROPOSED AMENDMENTS REDEFINE THE RIGHT TO STRIKE TO COVER ONLY "PUBLIC EMPLOYEES WHO PERFORM NON-ESSENTIAL FUNCTIONS, AS DEFINED BY LAW". UNDER THE AMENDMENTS, AS UNDER THE CURRENT PROVISION, THIS RIGHT MAY BE RESTRICTED ONLY IN LIMITED CIRCUMSTANCES.

ALL FUNCTIONS OF GOVERNMENT UNDER MY ADMINISTRATION ARE ESSENTIAL TO THE WELL-BEING AND SURVIVAL OF THE RESIDENTS OF THIS CITY. THESE AMENDMENTS DO NOT GO FAR ENOUGH IN RECOGNIZING THE SPECIAL AND VITAL ROLE OF GOVERNMENT WORKERS IN PROVIDING FOR THE HEALTH AND SAFETY OF OUR RESIDENTS. IN MY VIEW, THEREFORE, PUBLIC EMPLOYEES SHOULD NOT HAVE THE RIGHT TO STRIKE UNDER THE CONSTITUTION OF NEW COLUMBIA.

BEFORE I CLOSE, YOU HAVE ASKED ME TO COMMENT ON HOW AND AT WHAT TIME THE PROPOSED AMENDMENTS SHOULD BE CONSIDERED BY THE VOTERS OF THE DISTRICT OF COLUMBIA. THE CONSTITUTION OF NEW COLUMBIA IS BEFORE THE CONGRESS FOR ITS APPROVAL. IT APPEARS THAT WE SHOULD GET THE FULL BENEFIT OF CONGRESSIONAL EXAMINATION OF AND DELIBERATIONS ON THE AMENDMENTS BEFORE

FINALLY DECIDING UPON A COURSE OF ACTION FOR FINAL ADOPTION BY OUR CITIZENS. THE PRIMARY OBSTACLE TO STATEHOOD FOR THE DISTRICT LIES NOT WITH OUR CITIZENS, BUT HERE IN THE HALLS OF CONGRESS. WE SHOULD, THEREFORE, FACE THAT TOUGHEST CHALLENGE BEFORE ASKING OUR RESIDENTS FOR APPROVAL.

IN CONCLUSION, THE AMENDMENTS PROPOSED BY THE TASK FORCE REFLECT A REASONED AND RESTRAINED EFFORT TO RESPOND TO SERIOUS PRACTICAL AND POLITICALS CRITICISMS OF THE CONSTITUTION. IT IS IMPORTANT TO NOTE IN CLOSING THAT THE BASIC COMPONENTS OF GOVERNMENT AND ESSENTIAL FREEDOMS AND PROTECTIONS REMAIN UNCHANGED. THE PROPOSED AMENDMENTS TO THE "FREEDOM FROM DISCRIMINATION" PROVISIONS, FOR EXAMPLE, STATE THE GUARANTEES OF EQUAL PROTECTION MORE CONCISELY BUT NO LESS COMPREHENSIVELY THAN IN THE ORIGINAL. THE TASK FORCE RECOGNIZED THE IMPORTANCE OF AFFIRMATIVE ACTION AS A REMEDY FOR DISCRIMINATION, AND ALSO LEFT IT UNDILUTED.

SOME WILL SAY THAT THE AMENDMENTS PROPOSED BY THE TASK FORCE DO NOT GO FAR ENOUGH; SURELY OTHERS WILL SAY THAT THEY GO TOO FAR. IT IS PROBABLY IMPOSSIBLE TO SATISFY EVERYONE WITH A DOCUMENT SO IMPORTANT AS A CONSTITUTION. THE PROPOSALS DO, HOWEVER, REPRESENT A SERIOUS ATTEMPT AT CONCILIATION, AND ACCOMMODATION. WE HOPE THAT THEY ARE RECEIVED AS SUCH AND FAVORABLY CONSIDERED BY THE CONGRESS, AND BY THE CITIZENS OF THE DISTRICT.

THANK YOU FOR THIS OPPORTUNITY TO TESTIFY. I LOOK FORWARD TO FURTHER PROGRESS ON THIS IMPORTANT ISSUE. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

Mr. FAUNTROY. I thank you, Mayor Barry, not only for your sterling record as Mayor of the District of Columbia but for this very thorough, direct, and candid testimony on each provision of the constitution which is before us, to which we have been calling attention.

I particularly appreciate your wisdom on the question of the right to strike, coming, as it does, from a mayor who has worked so hard in this city and who has contributed so much. I assure you that your concerns will get serious consideration by the committee.

Clearly, Mayor Barry, during the decade of home rule through which we have now come, the District has proven itself worthy of greater self-government, and, indeed, under your stewardship, the budget has been balanced. There is a surplus, and the accumulated deficit is being chipped away.

I wonder if you would care to comment on how the District's finances might be affected by statehood. I'm particularly interested in hearing your views on the Federal payment and how its fate might affect the District's financial situation.

In that regard, you ought to know that I have reintroduced the new constitution with the recommendations of the task force, and, among the additions which I have made is a provision on section 5(d), on page 4, which reads:

> Notwithstanding any other provision of this act or any other provision of law, the annual Federal payment authorized to be appropriated to the District of Columbia pursuant to section 502 of the District of Columbia's Self-Governmental Reorganization Act, D.C. Code, section 473406, shall be authorized to be appropriated to the State of New Columbia.

I think you see very clearly what I want to do here, and I was particularly interested in hearing your views on the Federal payment and how its fate might be affected by the District's financial situation.

Mayor BARRY. Mr. Chairman, as we all know, the constitution of the State of New Columbia exempts the Federal land held by the Federal Government from being under the jurisdiction of the State of New Columbia.

The Federal Government, Mr. Chairman, as you know, owns 55 percent of the taxable land in the District of Columbia, and we are to continue to require the support of the Federal Government to the State of New Columbia. If we were able to have as our new State the entire borders of the District of Columbia, notwithstanding what's inside of those borders, we would have valuable assets and valuable land that could be used for other purposes rather than government. So I think we need to continue that, Mr. Chairman.

At the same time, we need to insist—and I think the constitution deals with that, but, again, if it doesn't, also our right to tax non-D.C. residents who work in the State of New Columbia. Forty-three States in the Nation apply a reciprocal income tax. So we need both in order to maintain the financial stability of the State of New Columbia.

We would be landlocked and not have some of the other minerals and other assets that some other States may have to generate revenue. So we would support that section 5(d) in terms of the Federal payment.

My only comment on that would be that if we come up with a formula, which I hope we do in this session of the Congress——

Mr. FAUNTROY. We're working at it.

Mayor BARRY [continuing]. That will give us automatic annual appropriations based on that formula and authorization at the same time. That then ought to be the language that finally ends up in the constitution.

Mr. FAUNTROY. That's a very good point, Mr. Mayor.

With respect to your comments, let me say two things. First, the Federal payment to which I have reference here assumes an automatic formularized Federal payment, and it does suggest that before we pass the statehood constitution, that we had better get this formularized Federal payment clear——

Mayor BARRY. Right.

Mr. FAUNTROY [continuing]. In section 502 of the District of Columbia Self-Government and Governmental Reorganization Act.

Also, it goes without saying that statehood itself grants to the government the right and the privilege of entering into reciprocal agreements for commuter taxes and the like.

So the constitution itself does not deal with that. But I can assure you that there will not be on the statehood constitution a provision that was attached to the home rule measure for the District of Columbia prohibiting such a commuter tax. That would not make us a State.

Putting aside, then, the issues of the Federal payment and commuter tax, have you given any thought as to how the District might stand financially as a State, as compared to its current status?

For example, do you know if we would do better or worse in matters of revenue sharing, highway and transportation funds, and other Federal funding programs?

Mayor BARRY. Mr. Chairman, from the Federal Government's point of view as it relates to either block grants or revenue sharing or any other type of Federal assistance, we are now treated as a State.

I have the power in terms of Federal grants and block grants that Governors have. So in terms of the Federal Government's grants in aid to States, as far as we can see, it would not be affected by that negatively.

If anything, we may be affected positively, because there are some Federal grants that go exclusively to States, and in a couple of instances—I can get back to you what those are—the District is not named as a State in those grants.

But we would not suffer negatively at all as a State, because we are now treated as a State from the Federal Government's point of view. In fact, we are in the region, with other States of Virginia, Maryland, Pennsylvania, West Virginia, and the District of Columbia, which usually makes up the region—I think it's region III—in the Federal Government's scheme of things.

So the answer to that is, we would not suffer negatively, and, in fact, there's a good chance we would benefit positively from statehood from the Federal Government's point of view regarding grants-in-aid.

Mr. FAUNTROY. I assume that it wouldn't hurt to have two voting Members of the Senate and Members of the House commensurate with our population; and that should help a great deal.

Mayor BARRY. Not only would it help a great deal, it would help more than a great deal in the sense that, as you know, from time to time you build up credits and debits with other Representatives and other Senators on matters. As you know, when the appropriations bill is passed, you'll find everybody putting a little piece in.

I was reading the other day about the Philadelphia Navy Yard situation and how the two Senators from Pennsylvania were making sure that the navy yard there was protected because of jobs for people in Philadelphia. So voting people can have that kind of influence.

For instance, if you were able to vote and had the seniority that you have now, you would be in an excellent political bargaining position to ensure additional benefits to the District or to the State of New Columbia.

Mr. FAUNTROY. Thank you so much, Mr. Mayor.

If you will bear with me for just a few more questions, because there are so many things that you can contribute to this discussion against the background of your experience.

Assuming that the bill passed during this Congress, is the District of Columbia prepared to take on the additional financial burdens that might be encountered?

For example, the District would have complete responsibility for law enforcement, including prosecutions now undertaken by the U.S. attorney's office and functions now provided by the U.S. Marshals Service.

Is that going to be a problem?

Mayor BARRY. Mr. Chairman, obviously that would be a problem, but it's not an insurmountable problem.

We've indicated, even now, that the citizens and residents of the District of Columbia ought to have our own prosecutorial authority, to have our own prosecutors, and to also have our own marshals service or share of whatever you may define as the appropriate law enforcement entity that will replace the U.S. Marshals Service.

In our own recommendations some 2 or 3 years ago, we proposed a phased in approach. At that time, we weren't talking about the State of New Columbia, but we were talking about the D.C. government. It would take on the full responsibility financially for the operation of the judiciary and for the operation of the prosecutor's office and the marshal service.

Mr. Chairman, already the D.C. government pays for the complete operation of superior court, where most of the U.S. attorneys' local trials are conducted; there are very few that are not conducted there. So that cost is already being paid for right now. The only additional cost would be the personnel.

It may be that in the State of New Columbia you wouldn't need the same kind of composition of prosecutors that you have now, because our priorities may be different, and therefore the cost might not be as great, and it may be that what the marshals service now does can be a combination of what we do in the department of corrections and the police department.

So I don't see any insurmountable financial problem in taking on this responsibility.

Mr. FAUNTROY. It's noteworthy that we already pay for our judges. Indeed, even with the addition of the seven judges thrust upon us last year, after 1 year District residents will pick up their costs as well.

Mayor BARRY. That's true.

Mr. FAUNTROY. So I appreciate that answer, and it does clarify for the Congress not only our ability to assume what additional responsibilities might be incurred but also to punctuate the fact that we already pay for it.

Mayor BARRY. Mr. Chairman, let me just say that I get the sense that most of us residents of the District of Columbia who would become residents of the State of New Columbia are willing to pay for our freedom.

Freedom is not free, and I'd rather pay more for something that I have something to say about than to pay a little bit for something I don't have anything to say about.

Mr. FAUNTROY. Very good.

Mr. Mayor, finally, are there any provisions of the constitution relating to the power of the executive and the executive branch which concern you?

Chairman Clarke responded to a similar question in terms of the balance between the executive and the legislative branches. I wonder if you'd care to comment on your thoughts.

Mayor BARRY. Mr. Chairman, I see several limitations here.

Under section 7, principal departments, on page 12—

> All officers and agencies of the executive branch shall be allocated by law among not more than 20 principal departments which shall be grounded, as far as practically, according to major purposes.

Mr. Chairman, I don't think this provision is an insurmountable one, but, on the other hand, it may tend to restrict the Governor from reorganizing or having more than 20 principal departments.

So it seems to me that's again, not an insurmountable problem, or major one, that requires Herculean efforts to remove, but that does appear to be rather restrictive as to how many departments you may have. Even the definition of "principal departments" may cause some problems. So I'd like to comment on that. That's one limitation.

Also, Mr. Chairman, appointment of boards and commissions—we now have some 145 or so boards and commissions in the District of Columbia, some of which are regulatory, occupational boards, and some of them are merely advisory.

It seems to me the new constitution requirement that the Governor appoint members with the advice and consent of the general assembly, again, may restrict the flexibility of the Governor's office.

There are a number of boards and commissions for which I now have the authority to appoint the members by executive order. They are advisory to me, and they give citizens a chance to input into the process. Their advice is not binding, and it seems to me, to go through the process of advice and consent with every board and commission may prove to be rather difficult.

I do believe that there ought to be advice and consent of cabinet members, of major boards and commissions, but not all of them. Some of them are merely advisory, and they could be established informally, but, in order to give them some stability and some basis in law, an Executive order is now used to do that.

On the other hand, those boards and commissions that have been created by the State legislature, certainly I would have no problem with those boards and commissions having the advice and consent of the general assembly.

Mr. FAUNTROY. Well, thank you so very much, Mr. Mayor. I do appreciate, as I indicated earlier, not only the thoroughness with which you have prepared for your testimony but the directness and candor that you've employed in answering all of our questions.

Mayor BARRY. Mr. Chairman, that comes from experience.

Going into my 7th year here, there are things I can probably comment on more succinctly and clearly than some would speculate, just as there are things that you can comment on, since you've been in the Congress since 1971, as to how the Congress operates and doesn't operate, based on experience.

Experience, I have found—the more I get it, the more I believe in it—is the best teacher.

Mr. FAUNTROY. As a matter of fact, Mr. Mayor, I was opposed to the seniority system when I came over here, but the longer I stay, the better I like it.

Mayor BARRY. And the more seniority you get. [Laughter.]

Mr. FAUNTROY. As a matter of fact, one of the reasons why I want to thank all of the witnesses today for their patience in remaining with us an extended period is that I think this is probably going to be the most substantive hearing, from an on-the-ground point of view, that we're going to have on statehood. I want to be armed with the wisdom of all of you, as we move into further hearings.

So please bear with me if I question each of the witnesses at some length.

You do benefit from the fact that, while I am the ranking member of the District Committee and the fourth ranking member of the Banking, Finance and Urban Affairs Committee, and chairman of the Subcommittee on Domestic Monetary Policy, I can't vote on the floor of the House, so I don't have to answer those bells.

Were I not the chairman, you'd have to be waiting around until Members made a 15-minute jaunt across to the Capitol and back.

While the office of the Delegate has some handicaps, for our purposes it's a benefit at this point, and I can continue to question you throughout this period and probably get you out before dinner.

Thank you so very much.

Mayor BARRY. Thank you very much, Mr. Chairman.

Mr. FAUNTROY. Our next witness is the distinguished representative of the statehood party on our city council, a member of the statehood constitution convention, an architect of greater self-determination for the District who, by her life and her work, has established the cadences to which we have marched in the last blank number of years in the quest for statehood and full self-determination.

May I invite Hon. Hilda H.M. Mason, council member of the City Council of the District of Columbia.

Thank you so much, Ms. Mason. We have your testimony, and we look forward to your contribution to this process.

STATEMENT OF HON. HILDA H.M. MASON, COUNCIL MEMBER, CITY COUNCIL, DISTRICT OF COLUMBIA

Ms. MASON. Thank you, Mr. Chairman, and good morning.

I am Hilda Mason, member at large of the Council of the District of Columbia and a member of the D.C. Statehood Party. Also, in 1981, I was elected and served as a delegate at large to the statehood constitutional convention.

I have lived in the District of Columbia for nearly 40 years—I won't tell you my age—participating in the political life of the District as actively as I was allowed to do by law, and voting whenever I had the opportunity.

I'm here today to speak favorably on the petition for statehood which is before Congress and to recognize certain factors with regard to the constitution which has been passed by the people of the District of Columbia.

My concerns, as we proceed beyond this point, are two: One, that the procedures for achieving statehood be legally sound and produce at some point in the process the opportunity for each District of Columbia registered voter who desires to do so to vote on any changes or on the proposed final form of the constitution for the new State.

The bill introduced before the House of Representatives by Delegate Fauntroy, H.R. 325, New Columbia Admission Act, and its counterpart introduced before the Senate by Senator Kennedy could recognize this concern and provide for it.

I should like to see comment on both bills by the entities set up by the convention to develop the transfer of powers between the Federal Government and the new State government, the statehood compact commission.

Two, that the constitution with which the residents of what is presently known as the District of Columbia enter statehood preserve at least those rights which each District of Columbia individual resident already enjoys and those which are enjoyed by residents of each of the other States.

I shall not at this time comment on each specific suggested change to the proposed constitution. Some care is required to determine which changes are substantive and which are improvements in language.

I do approve wholeheartedly of the approach and of the changes which have been proposed. I will have to study it to see if there are any technical problems that I have.

I want to put on the record, however, my appreciation for the efforts which have gone into preparing the changes and my appreciation for Mr. Fauntroy's leadership in making opportunities for people to testify on the matter of statehood and to bring before Members of Congress their points of view on this subject of such high significance to the residents of the District of Columbia.

There are those who find that the amendments proposed by the informal task force, to some extent, diminish the protections and rights for the individuals which the constitutional convention worked hard to make certain were included in the constitution and which were included in the constitution adopted by the electorate of the District of Columbia in November 1982.

To these people, I would suggest the thought that admission to statehood is our goal, and, Mr. Chairman, I said this when I was campaigning to become a delegate to the convention, that our prime objective is to achieve statehood.

If the changes suggested by the task force make our petition for statehood more acceptable to Congress, then these changes are acceptable to us.

The constitution, as originally proposed by the convention and adopted in 1982 by the voters, along with the legislative history supplied to the Congress I hope will serve as a declaration of the intention of the people of the District of Columbia.

Many of the protections and rights described in the original proposed constitution are presently in law in some form under which District of Columbia residents live. These would continue in force as the changeover to State government is made. Many others are similar to provisions found in the constitutions of other States.

One matter that concerns me is the persistence of certain myths about the District of Columbia. For example, a Member of Congress was quoted in Monday's Washington Post as believing that statehood for the District of Columbia is stupid because District of Columbia would lose financial support from the Federal Government and would not gain any new taxing powers to replace it.

I believe both parts of that statement to be questionable. The State of New Columbia will continue to receive payments from the Federal Government under the same conditions as many, if not all, other States do right now, and we would have the same taxing powers as any other State has which we do not presently have.

After all, no State or any entity receives Federal funds in the absence of congressional authorization and appropriation.

The State of New Columbia could ask Congress for payment to cover the unusual level of services provided by the Federal Government beyond what is normally provided by other States, and I know that you are taking care of that, Mr. Chairman, and I'm very happy.

Two other myths that seem to have great staying power are that the majority of the people in the District work for the Federal Government and that the territory is not economically viable.

I should like to quote, as my comment on those myths, from the official statement about the District of Columbia which was associated with a recent issuance of general obligation bonds.

The District of Columbia has a diversified economic base. Washington is the central city of the seventh most populated metropolitan area in the country and has the second highest per capita income of any city over 500,000 in population. Within the District, private enterprises employ approximately 56 percent of the work force; approximately 35 percent of employment is provided by the Federal Government and 9 percent by the District Government. The private sector of the District's economy is heavily service oriented, with professional services, finance, insurance, real estate, and retail sales constituting approximately 81 percent of private employment. The convention and tourism industries and institutions of higher education

are also major employers in the District. The headquarters of over 1,700 national trade associations, voluntary organizations, and labor organizations are located in the Washington area.

The District's general fund has a broad revenue base with approximately 58 percent from local taxes; 8 percent from fees, fines, and miscellaneous services; and 34 percent from the Federal Government, including the annual payment in lieu of taxes, grants, and revenue sharing.

Prior to 1975, the District's financial operations were controlled by the Federal Government.

And I might say parenthetically there, we were left with a big debt, as you know, Mr. Chairman, which we have been struggling to pay off.

Since then, extensive improvements have been made in the accounting, budget, and financial control functions of the District . . . Over the 4-year period from fiscal year 1981 through fiscal year 1984, the general fund of the District of Columbia has realized an excess of revenues and other sources over expenditures and other uses in each fiscal year.

This same document, released by the Mayor in support of a bond issuance and presumably aimed at people who are accustomed to collecting facts before investing money, is also very interesting to me in its summation of the relationship between the Federal Government and the District.

Frequently, we who live and work in the District like to look on home rule as progress toward the full freedom and responsibility of statehood.

The bond issuance document looks at it differently, with a colder eye:

Notwithstanding the delegation of authority for self-government made by the Home Rule Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the council by the Home Rule Act, including legislation to repeal any law in force in the District prior to or after enactment of the Home Rule Act and any act passed by the council. However, such legislative authority is subject to constitutional limitations on the power of the United States, such as the prohibition against taking private property without due process of law.

We in the District of Columbia live under this system without the power to vote for the people who can apply it. It is no exaggeration that we live under taxation without representation and, worse, without the power of self-determination to decide the use of our own locally collected taxes. In fact, Mr. Chairman, I have thought in the past of maybe refusing to pay taxes and going to jail if necessary, but I know that would not work.

I hope that we will work out a plan, though, where we can actively advocate for freeing the District of Columbia.

No Member of Congress would or could choose a system for his or her own State as the one under which we live. We want it changed, and we want it changed through statehood.

I do again thank you for the opportunity to speak. I really appreciate the time and effort you have put into this work which is now at this stage.

I agree with the chairman of the council that the council has not had a chance to study the constitution, as changed. I'm sure that if you have questions for the council and if you have any for me, I would be happy to respond in writing.

I have missed one committee meeting at the council this morning where my vote was needed, and there's another committee meeting going on. I hope I catch it before the vote comes up.

I thank you very much for the opportunity to testify.

[The prepared statement of Ms. Mason follows:]

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D C 20004

HILDA HOWLAND M. MASON
Council member at Large

STATEMENT BY HILDA HOWLAND M. MASON, MEMBER AT-LARGE OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, BEFORE THE SUBCOMMITTEE ON FISCAL AFFAIRS AND HEALTH OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA HEARING ON STATEHOOD FOR THE DISTRICT OF COLUMBIA, MAY 22, 1985.

Good morning. I am Hilda Mason, Member at-Large of the Council of the District of Columbia, and a member of the D.C. Statehood Party. Also, in 1981, I was elected and served as a Delegate at-Large to the Statehood Constitutional Convention. I have lived in the District of Columbia for nearly 40 years, participating in the political life of the District as actively as I was allowed to do by law, and voting whenever I had the opportunity. I am here today to speak favorably on the Petition for Statehood which is before Congress, and to recognize certain factors with regard to the constitution which has been passed by the people of the District of Columbia.

My concerns, as we proceed beyond this point, are two:

1) That the procedures for achieving statehood be legally sound and produce at some point in the process the opportunity for each District of Columbia registered voter who desires to do so to vote on any changes or on the proposed final form of the constitution for the new state.

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2) That the constitution with which the residents of what is presently known as the District of Columbia enter statehood preserve at least those rights which each District of Columbia individual resident already enjoys, and those which are enjoyed by residents of each of the other states.

I shall not at this time comment on each specific suggested change to the proposed constitution. Some care is required to determine which changes are substantive and which are improvements in language. I want to put on the record, however, my appreciation for the effort that has gone into preparing the changes, and my appreciation for Mr. Fauntroy's leadership in making opportunities for people to testify on the matter of statehood and to bring before members of Congress their points of view on this subject of such high significance to the residents of the District of Columbia.

There are those who find that the amendments proposed by the informal task force to some extent diminish the protections and rights for the individual -- which the Constitutional Convention worked hard to make certain were included in the constitution, and which were included in the constitution adopted by the electorate of the District of Columbia in November, 1982. To

these people, I would suggest the thought that admission to statehood is our goal. If the changes suggested by the task force make our Petition for Statehood more acceptable to Congress, then these changes are acceptable to us. The constitution as originally proposed by the Convention and adopted in 1982 by the voters, along with the legislative history supplied to the Congress, I hope will serve as a declaration of the intention of the people of the District. Many of the protections and rights described in the original proposed constitution are presently in the law, in some form, under which District of Columbia residents live. These would continue in force as the changeover to state government is made. Many others are similar to provisions found in the constitutions of other states.

One matter that concerns me is the persistence of certain myths about the District of Columbia. For example, a member of Congress was quoted in Monday's Washington Post as believing that statehood for the District of Columbia territory is "stupid" because "D.C. would lose financial support from the federal government and would not gain any new taxing powers to replace it." I believe both parts of that statement to be questionable. The State of New Columbia would continue to receive payments from the federal government under the same conditions as many, if not all, other states do; and we would have the same taxing powers as any other state has, which we do not presently have. After all, no state or other entity receives federal funds in the absence of Congressional authorization and appropriation. The State of New Columbia could ask Congress for payment to cover the unusual level of services provided to the federal government beyond what is normally provided by other states.

Two other myths that seem to have great staying power are that the majority of the people in the District work for the federal government, and that the territory is not economically viable. I should like to quote, as my comment on those myths, from the official statement about the District of Columbia which was associated with a recent issuance of general obligation bonds:

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I want to thank you for the opportunity to make this statement today, and I am prepared to answer any questions you may have.

Mr. FAUNTROY. And I thank you, Councilwoman Mason. Let me commend you again for your excellent testimony. I'm going to try to get you out so that you can get back to your committee meeting.

Let me say, I particularly appreciate your calling our attention to the bonding provisions of the present law. It gives me an opportunity to emphasize the fact that bond counsel have been unanimous in their view that we would be in a better position to achieve higher ratings under statehood than under the present arrangement, and that's a very good thing to point out in your testimony.

Your testimony is excellent, except with respect to one word that I find in it, which I'm going to take the opportunity to address on the public record for the first time.

You said, "The bill introduced before the House of Representatives by Delegate Fauntroy, H.R. 325."

Let me say that in the nearly 14 years—more than 14 years that I have served on Capitol Hill, one element of the media in the community has undertaken a continuous campaign to have the District Representative on the Hill referred to as "Delegate, nonvoting," and I just wanted you to know that from the time that I've been here my colleagues refer to me as "Congressman," for the reason that they know that I am more representative of American citizens than any single Member of the House. I represent more people who pay taxes, indeed, people who pay more in Federal taxes per capita than the residents of all but one State of the Union. So they refer to me as "Congressman."

I would also point out that I was, as you may recall, among those first appointed by President Johnson to serve on the city council.

President Johnson made it a point, and the press locally agreed, that we should refer to the Mayor of the District of Columbia—the commissioner of the District of Columbia not as "Mayor-Commissioner" but as "Mayor," that the members of the council, even though what they voted had to be submitted to the Congress for final approval, should be called councilpersons.

So we did that during the appointed era, and you do not see references now to the "nonvoting mayor" or the "nonvoting council," although their votes in committee, given this structure, cannot be ratified until the Congress has acted, so that you excuse that emphasis.

During the civil rights movement, during the period when, because of the color of your skin, the law in the South was that you sit in the back of the bus, I was forced by law to sit in the back of the bus.

My body was back there, but my mind was up front. So I decided to act as if my body had caught up with my mind, and that's why so many of us refused to accept the unfair limitations placed upon us even in language.

When I got to be 21 and I reached the age of majority, I insisted that I be called sir and referred to as a man, even though I may have looked like a boy.

So you will understand why I insist on Capitol Hill that my colleagues refer to me as "Congressman."

Not only that, but you will notice that the District Committee is the only committee which refers to the distinguished gentleman from the District of Columbia as "the Delegate."

That, too, has a history which, upon review, I am going to correct the next time we go to print, because at the time that I had been elected to the Congress, there were forces in the community and in the media who persuaded the chairman of the committee then, Charles C. Diggs, that I should be put in my place and reminded that I was the Delegate, that I was not to act as if I were a Congressman.

I had to go to Wilbur Mills, who was then chairman of the steering committee, by which people were appointed and accorded seniority, to have him to establish the fact that not only did I represent more people, but I was entitled to seniority, and I have moved on up, and I'm appreciative of that.

I didn't mean to go on like that, but I thought I'd better put it on the record, and you will understand that. When you sit in the back of the bus, you know that you have a right to sit up front. Your body may sit there.

I don't go over there and vote, but when I go into these Members' districts—and I have to work so hard, because without a vote on the floor, I have to get votes from all over the place, so I have to go all over the place, and I don't want you to think that I'm angry. I'm not angry at all.

Ms. MASON. Mr. Chairman, I am angry, because I don't want you even to be in the position of a delegate who does not have a vote.

I grew up in a part of the country where I sat in the back of the bus. I grew up in a part of the country where I couldn't even go to a high school except one that was established by church groups, because there were no high schools for blacks in the part of the country where I lived.

So you know that I know, and this is why I fight so hard and will never give up. Even after I'm dead, I will be fighting.

Mr. FAUNTROY. After you're dead? Thank you for that statement of determination. I appreciate that.

Let me just ask a couple of questions really quickly.

First, in the Home Rule Act, special provision is made to ensure the election of candidates from more than one party. That is not done in the proposed constitution. Are you troubled by the lack of that provision at all?

Ms. MASON. No, I'm not.

Mr. FAUNTROY. Good question; good answer. Thank you.

Also, it calls for a 40-member house of delegates. That's a little more than three times what we now have as councilpersons. Would you care to comment on that, based upon your experience as a councilmember with other colleagues?

Ms. MASON. I think I'd just about agree with what Chairman Clarke said, that it would be rather hard to manage, but I don't think that it's unmanageable. I'm not opposed to it, although I would not have been opposed if it had been a smaller group.

Mr. FAUNTROY. Thank you so very much, Councilwoman Mason, and now, if you will speedily get over there and cast your vote, although the Congress will have to ratify anything you vote.

I call you Councilperson Mason.

Ms. MASON. Thank you, Congressman.

Mr. FAUNTROY. Thank you.

Mr. FAUNTROY. May I ask that the next three witnesses who have contributed so much to this whole thrust would join us as a panel?

Mr. Charles Cassell, would you take the center mike?

Ms. Josephine Butler, would you take the mike there on the left?

Mr. Sellers, would you be kind enough to take the mike on the right?

We have looked forward to your testimony as well. Thank you for your patience in waiting, but it must have been a source of great satisfaction to hear our Mayor and chairman of the council, and a very distinguished member of the city council support the result of the work of the statehood task force.

With that, I want to call upon the distinguished president of the D.C. Statehood Constitutional Convention, Mr. Charles Cassell, who, like Hilda Mason and Marion Barry and David Clarke, has been a long-distance runner in the quest for full self-determination for the residents of the District of Columbia.

Thank you, Mr. Cassell.

STATEMENTS OF CHARLES CASSELL, PRESIDENT, D.C. STATEHOOD CONSTITUTIONAL CONVENTION; JOSEPHINE BUTLER, CHAIRPERSON, D.C. STATEHOOD COMMISSION; AND JOSEPH M. SELLERS, MEMBER, WASHINGTON COUNCIL OF LAWYERS, AND MEMBER, TASK FORCE ON THE CONSTITUTION FOR THE STATE OF NEW COLUMBIA

STATEMENT OF CHARLES CASSELL

Mr. CASSELL. Thank you, Mr. Chairman, Congressman Fauntroy.

I want you to know that, in the beginning of your tenure, I was one of those who referred to your position as the "nonvoting Delegate." This was not directed at you; this was directed at the circumstance and to highlight it and complain about the fact that we in Washington, DC, were not entitled by law to what every other citizen has.

I must say that in recent years I have been very careful; in fact, I have not had to be careful to address you as "Congressperson," first of all, because of the assistance that you gave to us as we drafted the constitution; second, for some wise advice which we may not have perceived as accurately at the time as we do now about how to draft a constitution which has a good possibility of successfully getting through the Congress; and other activities of yours that have to do with international affairs, and so forth, have given me a great respect for your position, a great respect for you as an individual, and I want to thank you very much, Congressman Fauntroy. I have no difficulty in remembering that today.

I also want to associate my own remarks with those of the Mayor. I want to say I am very proud. I feel very good about this whole process, first of all because we are together. It looks to me like we've got a pretty swinging government now.

We've got a Mayor whose leadership, whose survivability, whose political finesse, whose insight are just superb, and he has been very supportive throughout this whole process of statehood.

We have a Congressperson who has seized the recognition that he deserves in the Congress and done it in a constructive way.

51-422 O—85——4

I, incidentally, want to say also that we're very proud and thankful to your assistant, Mr. Johnny Barnes, whose stewardship of the task force was excellent, diplomatic, thoughtful, and effective, and it's brought us to this point now.

I want to thank you for all of that.

Over the years, there has been a lot of political maneuvering within the city, but it seems to me we're coming together now, and I'm happy about that and proud that Ms. Butler and Ms. Parker who are, respectively, chairpersons of the D.C. Statehood Commission and the D.C. Statehood Compact Commission, and Mr. Joseph Sellers, who has done superb work in, in effect, chairing, along with Mr. Barnes, the work of the task force.

I don't want to comment on the constitution. I think that's been done very well by yourself and also by the Mayor. I agree with everything that the Mayor says, except the question of the right to strike.

If the stewardship of the State of New Columbia should forever be of the quality it has been under Mr. Barry's leadership, I have no concern. However, this document is to protect the citizens in their relationships with the city government as an employer over generations and centuries, and therefore I think the delegates were thoughtful and realistic in noting the kinds of conflicts that exist between the workers and any employer, including the State government, and that there must be some empowerment, if indeed the State government is to feel that it has to negotiate in good faith and if indeed a union is to have any sort of strength and power without the right to strike.

I think the qualifications that were made by the task force were worthwhile and should eliminate some of the concerns about disrupting the necessary functioning of the city.

Let me skip over references to past activities, and let me say, during the 20-odd years covering my variety of activities in the District of Columbia, the most compelling for me has been my role as one of the spearheads in the city's urgent quest for representative government through statehood.

The D.C. statehood bills introduced in both Houses of the U.S. Congress are the work of arduous and spirited communitywide organization and electoral activity in the District of Columbia.

We don't ever want to forget what has brought us to this point, and for the last 10 years people like Julius Hobson and all the various organizations that had similar goals to his have really organized our city and carried us through the whole initiative process to the fact that we are here inevitably, but this is essentially the work of a large number of D.C. citizens.

Those in the vanguard of this important movement consider that this represents the halfway point in the removal of an unwarranted blemish on the Nation's image and on the democratic rights of nearly 700,000 American citizens who reside in the Nation's Capital.

Our D.C. congressional representative, Hon. Walter Fauntroy, sir, is held in the highest esteem by his constituents, as is evidenced by his return to the House seven times since his first election.

May I say to all of your colleagues, and that is, those who are not here but those who serve with you, that I am certain that they could not conceive of their not being able to cast a vote with their peers on the floor of the House of Representatives.

I'm also certain that they could not tolerate any rationale for denying the mayors of their cities and their elected legislatures authority to conduct the elected government without a possible veto by a body they do not elect. Nor could they understand their ineligibility to elect their judges and district attorneys or have them appointed by a Governor they do elect.

I can say that this denial of democratic process is just as abhorrent to the vast majority of D.C. citizens. It is that disenchantment with disfranchisement that has brought us to this hearing today.

These statehood bills are not just the proposals or preferences of Messrs. Fauntroy and Kennedy, to be debated, bargained over, and dispensed with in accordance with the usual political considerations and special biases. These bills represent a decade of developing frustration and community-devised remedy which is consistent with the only accepted and practical pattern for democratic government below the Federal level, and that is statehood.

To treat this extended citywide effort as anything other than an urgent desire by American citizens to enjoy the untrammeled fruits of American citizenship would not be just, nor would it be prudent.

In addition to what is a necessary discussion of, and analysis of, the constitution which is before the Congress, it is important to remember that there are nearly 700,000 citizens out there who will feel very badly, neglected, abused, insulted, and not very happy about denial of a process which they have developed over this long time. That's something very important for legislators to consider.

The petition for D.C. statehood and the pending enabling legislation mark a highly significant point in the history of the United States. It has only happened some 51 times, perhaps more than that, since some States have had to apply more than once.

Without a doubt, this Nation cannot afford the glare of an international spotlight in matters concerning respect for and involvement in the achievement of democratic rights for all people.

The unexpected but unremitting national opposition to South African apartheid is an important case in point. Although we have no current experience similar to the horrid despotisms existing in the world, the continuation of the citizens in our own National Capital under the kind of democratic denial that we criticize elsewhere would be unwise under any provincial rationale.

In an article published on June 6, 1982, on page C7 of the Washington Post, I made the following statement:

> The momentum toward freedom and political equality for these 700,000 American citizens is on. The desire for ending their exclusion from the Federation of States cannot be ignored. I cannot accept the characterization of the U.S. Congress as essentially prejudiced persons with narrow self-interests, influenced by undemocratic special interests and indifferent to our plea for release from an outmoded, outdated, unacceptable form of government.

I mean that.

> I prefer to think of that august body, accustomed to constituent requests, will respond to a well organized, citywide movement toward statehood on the merits of the

issue. The merits have been highly persuasive to the voters and certainly to those who seek their support.

This stated respect for the progressive potential of the U.S. Congress does not represent a politic approach. I recall such early legislation as that associated with workmen's compensation, Social Security, and the securities exchange, and such recent legislation as civil rights, voting rights, and the rights of the handicapped. For whatever reasons, they were accomplished.

Regarding the constitution drafted by the statehood constitutional convention, over which I presided, I cannot emphasize too strongly that the document, although essential to the process, is an implementing measure which need only define a State which is republican in form and be not repugnant to the U.S. Constitution.

It should not—and I pray you, if any be so inclined—be seized upon as a device for focusing attention away from the critical, persuasive, and historic case for removing the last colony from the continental United States of America. These considerations cannot be set aside in a debate over the details of a constitutional document.

The constitution for the future State of New Columbia represents a unique, praiseworthy, and historic accomplishment in Washington, DC.

While most other territories seeking statehood enjoy time frames of more than 1 year and budgets exceeding $1 million, the District of Columbia Council stipulated only 90 days and $150,000 for this essential process in preparing for D.C. statehood.

Although media comment predicted our failure to meet these limits and media coverage of the proceedings was negative, although the convention experienced the usual controversy in resolving issues among varied constituencies, the delegates completed their work on a note of joyous harmony and in timely fashion.

Those of you who watched the TV report on that historic day of May 29, 1982, will remember that all the delegates were hugging, and kissing, and joyously shouting and singing and so forth, even that very tiny minority that wasn't fully in support of the constitution as a document.

The constitution reflected the views, concerns, and desires of one quarter of a million voters of the District of Columbia as perceived by those who were elected to develop the document.

The document was designed to address the real issues of the day and to be in conformity with guarantees of responsive and responsible government as are commonly accepted today.

During the writing of the constitution, among other distinguished persons, our congressional representative, Mr. Walter Fauntroy, addressed the convention. He urged us to persevere in our research of other State constitutions and promised to provide guidance, if necessary, in shaping the document to be sent to the Congress so that it was clear, precise, and drawn in such manner as to avoid unnecessary detail, duplication, and inclusion of matters traditionally dealt with in legislation. I think that covers everything that has been said today.

Mr. Fauntroy honored his commitment in the establishment of the statehood partnership previously mentioned with the suggestion that it spawn a task force to bring clarity to the constitution

and to respond to concerns expressed by Members of Congress at a Fiscal and Health Subcommittee hearing held by Mr. Fauntroy on May 15, 1984.

I believe the task force has done its work well, as shown in the amendment that you have before you. I believe also that the intent and integrity of the constitution has been retained. The eventual ratification by the voters of language adopted by the Congress would, of course, be necessary.

In closing, may I state again that the issue is statehood for the District of Columbia. The issue is representative government for New Columbia. The issue is political equity for nearly 700,000 Americans living in the Nation's Capital. The issue is American democracy for American citizens, no matter where they live. The issue is the removal of colonialism in the continental United States of America now. The issue is the projection to the world of American fidelity to American principles as well as abhorrence of undemocratic societies elsewhere.

With respect for the analyses and deliberations that you must pursue in considering Mr. Fauntroy's statehood bill, H.R. 325, I urge you to strongly support reporting the bill out and to campaign for its passage.

Mr. Fauntroy and Mr. Barnes, I want to pass up to you some material which shows the kind of promotional work that the executive committee of the statehood constitutional convention has been doing since the end of the convention on May 29, 1982.

D.C. Law 3-171 requires in its section 1-115 that the convention educate, advance, and promote the proposition of statehood for the District of Columbia in and beyond the District, and we have been doing that, and we have formed a D.C. Statehood Support Committee, a nonofficial body, which includes, incidentally, the heads of all of the major labor and civil rights and community organizations in Washington, DC. They have appeared, along with yourself, at our various receptions on Capitol Hill and elsewhere and promised strong support for statehood.

I pass that up to you just as an evidence of some of the things that we have been doing.

The most important one would be this document which says "statehood for Distict of Columbia" which we passed out at the polls last November, which gives all the citizens who went to vote on their way out of the polls the status of statehood as it was at that time and admonishes them to ask their relatives in the States to suggest to their congressional representatives that their chances of returning to the Senate and the House are enhanced by their support of statehood when it comes to them; and there are a variety of other things.

This you will recognize as the program from the last reception that was held on Capitol Hill at which you made a triumphant speech, since you had just returned from one of your more significant jaunts in behalf of the elimination of apartheid, et cetera.

I want to do one final thing, sir. I want to give you a statehood poster that we use to popularize statehood, and one for Mr. Barnes.

Mr. FAUNTROY. Thank you so very much. I have one of these posters in both my Hill and my district offices. I'm going to take this one to New Bethel Baptist Church.

Mr. CASSELL. Fine.

We have some more, now, if there are other places. They are strictly for purposes of promotion, sometimes called propaganda.

Mr. FAUNTROY. Thank you so very much, Mr. Cassell, for your very excellent testimony, eloquently stating the case for statehood, and particularly am I pleased with the promotional materials that you have provided us.

I'm going to include in the record, without objection, your statement in its entirety, and I will look forward to having you join the panel in responding to questions as soon as we have completed the statements of the other two distinguished members of the panel.

[The prepared statement of Mr. Cassell follows:]

TESTIMONY of CHARLES I. CASSELL, PRESIDENT, D.C. STATEHOOD CONSTITUTIONAL CONVENTION, BEFORE THE FISCAL and HEALTH SUBCOMMITTEE, DISTRICT of COLUMBIA COMMITTEE, U.S. HOUSE of REPRESENTATIVES o May 22, 1985

Mr. Chairman:

My name is Charles I. Cassell, elected President of the District of Columbia Statehood Constitutional Convention, whose term ran from January 30, 1982 to January 30, 1985. I am also a past chairperson of the D.C. Statehood Party and one of the party's founders, along with the Honorable Julius W. Hobson, Sr., who was a member of the D.C. Council at the time of his passing in 1977.

I am a member of the Constitutional Task Force, a committee of the Statehood Partnership established by you, nearly a year ago, to develop programs and directions designed to enhance the prospects for D.C. Statehood.

I am a member of the District of Columbia Historic Preservation Review Board, a mayoral appointment.

I am an architect, licensed to practice in the District of Columbia and now serve as Director of Facilities Development at the University of the District of Columbia.

Aside from the pursuit of Statehood for our city and the coordination of design, construction, and preservation of facilities at the University, I am president of the CHARLIN JAZZ SOCIETY, a non-profit organization which produces jazz concerts, conducts a Summer Youth Intern Program, and raises scholarship monies for students at the Ellington School of the Arts.

Finally, in 1969, I was elected to a four year term on the D.C. Board of Education and in past years ran unsuccessfully for the U.S. Congress and the D.C. Council.

During the twenty odd years covering this variety of activities, the most compelling for me has been my role as a spearhead in the city's urgent quest for representative government through statehood.

The D.C. Statehood bills introduced in both houses of the U.S. Congress are the result of arduous and spirited community-wide organization and electoral activity in D.C. Those of us in the vanguard of this important movement consider that this represents the halfway point in the removal of an unwarranted blemish on the nation's image and on the democratic rights of nearly 700,000 American citizens residing in the nation's capital.

Our District of Columbia Congressional representative, the Honorable Walter Fauntroy, is held in the highest esteem by his constituents as is evidenced by his return to the House seven times since his first election.

May I say to all of Mr. Fauntroy's colleagues in the Congress: your constituents could not, I am certain, conceive of your not being able to cast a vote with your peers on the floor of the House of Representatives; I am also certain that they could not tolerate any rationale for denying the mayors of their cities and their elected legislatures, authority to conduct the elected government without a possible veto by a body they do not elect. Nor could they understand their inability to elect their judges and district attorneys or have them appointed by a governor they do elect.

I can say, then, that this denial of democratic process is just as abhorent to the vast majority of D.C. citizens. It is that disenchantment with disfranchisement that has brought us to this hearing today. The Statehood bills are not just the proposals or preferences of Messrs. Fauntroy and Kennedy, to be debated, bargained over and dispensed with in accordance with the usual political considerations and special biases. These bills represent a decade of developing frustration and community-devised remedy which is consistent with the only accepted and practical pattern for democratic government below the federal level--Statehood. To treat this extended citywide effort as anything other than an urgent desire by American citizens to enjoy the untrammeled fruits of American citizenship would not be just, nor would it be prudent.

The petition for D.C. Statehood and the pending enabling legislation, mark a highly significant point in the history of the United States. It has only happened on some fifty-one occasions.

Without a doubt, this nation cannot avoid the glare of an international spotlight in matters concerning respect for and involvement in the achievement of democratic rights for all people. The unexpected but unremitting national opposition to South African apartheid is an important case in point. Although we have no current experience similar to the horrid despotisms existing in the world, the continuation of the citizens in our own national capital under the kind of democratic denial that we criticize elsewhere, would be unwise under any provincial rationale.

In an article published on June 6, 1982, on page C7 of the Washington Post, I made the following statement. . . "The momentum toward freedom and political equality for these 700,000 American citizens is on. The desire for ending their exclusion from the federation of states cannot be ignored. I cannot accept the characterization of the U.S. Congress as essentially

prejudiced persons with narrow self interests, influenced by undemocratic special interests and indifferent to our plea for release from an outmoded, outdated, unacceptable form of government.

I prefer to think that that august body, accustomed to constituent requests, will respond to a well organized, citywide movement towards Statehood on the merits of the issue. The merits have been highly persuasive to the voters and those who seek their support."

This stated respect for the progressive potential of the U.S. Congress does not represent a politic approach. I recall such early legislation as that associated with Workmen's Compensation, Social Security, and the Securities Exchange; and such recent legislation as Civil Rights, Voting Rights, and the rights of the handicapped.

Regarding the constitution drafted by the Statehood Constitutional Convention, over which I presided, I cannot emphasize too strongly that the document, although essential to the process, is an implementing measure which need only define a state which is republican in form and be not repugnant to the United States Constitution. It should not, and I pray you, if any be so inclined, be seized upon as a device for focusing attention away from the critical, persuasive, and historic case for removing the last colony from continental USA.

The constitution for the future state of New Columbia represents a unique, praiseworthy and historic accomplishment in Washington, D.C. While most other territories seeking statehood enjoyed time frames of one or more years and budgets exceeding one million dollars, the District of Columbia Council stipulated only ninety days and one hundred-fifty thousand dollars for this essential process in preparing for D.C. Statehood. Although media comment predicted our failure to meet these limits and media coverage of the precedings was negative, although the convention experienced the usual controversy in resolving issues among varied constituencies, the delegates completed their work on a note of joyous harmony and in timely fashion. And, of course, subsequent ratification by the electorate occurred at the next election.

The Constitution reflected the views, concerns, and desires of one quarter of a million voters of the District of Columbia, as perceived by those who were elected to develop the document. The document was designed to address the real issues of the day and to be in conformity with guarantees of responsive and responsible government as are commonly accepted today.

During the writing of the Constitution, among other distinguished persons, our Congressional representative, Mr. Walter Fauntroy, addressed the Convention. He urged us to persevere in our research of other state constitutions and promised to provide guidance, if necessary, in shaping the document to be sent to Congress so that it was clear, precise, and drawn in such manner as to avoid unnecessary detail, duplication, and inclusion of matters traditionally dealt with in legislation.

Mr. Fauntroy honored this commitment in the establishment of the Statehood Partnership, previously mentioned, with the suggestion that it spawn a task force to bring clarity to the constitution and to respond to concerns expressed by members of Congress at a Fiscal and Health Subcommittee hearing held by Mr. Fauntroy on May 15, 1984.

I believe the Task Force has done its work well, as shown in the amendment you have before you. I believe, also, that the intent and integrity of the constitution has been retained. Eventual ratification by the voters, of language adopted by the Congress would, of course, be necessary.

In closing, may I state again that the issue is statehood for D.C.; the issue is representative government for New Columbia; the issue is political equity for nearly 700,000 Americans living in the nation's capital; the issue is American Democracy for American citizens no matter where they live; the issue is the removal of colonialism in continental USA now. The issue is the projection to the world of American fidelity to American principles, as well as abhorrence of undemocratic societies elsewhere.

With respect for the analyses and deliberations that you must pursue in considering Mr. Fauntroy's Statehood bill, H.R. 325, I urge you to strongly support reporting the bill out and to campaign for its passage.

Thank you.

CITIZENS OF THE DISTRICT OF COLUMBIA !

The DISTRICT OF COLUMBIA STATEHOOD CONSTITUTIONAL CONVENTION salutes you! For you have made the greatest impact on our city's certain evolvement from a powerless colony, through the various forms of partial home rule, into the only democratic form of local government which exists in our nation. . . . Statehood.

The "Home Rule" local government, whose tenth anniversary we note this week, represents the last stop on our way to full self-determination and political equality with the rest of the nation.

And, as is always the case, the final leg of this historic journey toward political freedom was initiated by the people themselves. That is why the Statehood Convention delegates salute you.

For it was your Statehood Initiative of 1980 that created the Convention and gave us the mandate to draft a constitution for our future state.

It was you, who in November, 1981, elected forty-five delegates to perform this important task, and

It was your approval, in the citywide referendum of 1982, that resulted in Mayor Barry's petition to the Congress for the admission of New Columbia as the fifty-first state of the union.

It was your persistence that caused the introduction of D.C. Statehood bills in the House and the Senate by our Delegate Walter Fauntroy and Senator Edward M. Kennedy.

And, it will certainly be your insistent drive that brings about passage of D.C. Statehood legislation.

In New Columbia, we can then say, in the words of Dr. Martin Luther King. . . free at last!. . .free at last!. . .Thank God Almighty, we're free at last!!

To participate in the final leg of this wonderful journey, fill out the Statehood Support Committee form on the reverse side of this sheet and mail it to the Statehood Support Committee at the indicated address. If you and/or your organization will provide the kind of enthusiastic and effective work that has brought us this far, Statehood for D.C. cannot be far behind.

CHARLES I. CASSELL
President
DC Statehood Constitutional Convention

WILLIAM B. COOPER
Secretary

STATEHOOD SUPPORT COMMITTEES IN COMMUNITY ORGANIZATIONS

YES! I want the government that I elect in Washington, D.C. to be representative. I want the legislative branch of my government to have the authority to legislate withou veto by others for whom I cannot vote. I want the executive branch of my government to have the authority to carry out its laws without accounting to others for whom I cannot vote. I want the judges of our courts and our district attorney to be appointed by the chief executive of my state, not by the chief executive of the country.

To help achieve representative government in D.C. through Statehood, I will propose the establishment of a Statehood Committee in one or more of the organizations of which I am a member.

The organizations are as follows:

NAME	HEADED BY	ADDRESS	PHONE	NEXT MEETING DATE
1.				
2.				
3.				

My name is _____ Address _____

Telephone (day) _____ Telephone (Evening) _____ Zip Code _____

Note: Members of the Statehood Support Committee are prepared to provide information and materials at your next meeting. Please Contact Mr. Louis Thompson, 727-6310 or Charles I. Cassell, 362-0858. Mail this form to the D.C. Statehood Support Committee, P.O. Box 11076, Wash., D.C. 20008

Mr. FAUNTROY. I'm going to call now upon Ms. Josephine Butler, who has, again, been one of those long-distance runners in the quest for full self-determination and one who is the recipient of the gratitude of, indeed, all of the citizens of the District of Columbia for the yeoman's task she has performed as a member of the commission and the convention itself but, more importantly, as the co-chair now of the statehood commission.

Chairperson Butler, we look forward to your testimony as well.

STATEMENT OF JOSEPHINE BUTLER

Ms. BUTLER. Thank you, Congressman.

I just want to join my voice in praises of your actions and Mr. Barnes in supporting and giving leadership to this movement to free the people of the District of Columbia and bring them into first-class citizenship.

I was sitting here and remembering, I came to Washington 50 years ago, to a city that was totally segregated by law, and just remembering how far we have come in my lifetime in looking forward to completing this effort as we obtain statehood in the next 2 or 3 years.

As you said, I am Chair of the D.C. Statehood Commission as well as the statehood party, and I just want to enter into the record the duties of the statehood commission and the compact commission, because it's most important at this time to clarify what it is that we have done and what it is, as the Mayor reminded me just a moment ago, that we have to do in the future.

The statehood commission was established by D.C. Law 3-171, which also established the statehood compact commission and the statehood constitutional convention. As the Chair and member of the statehood commission, I have worked continuously to carry out the mandate of D.C. Law 3-171 which created the commission.

Our work began with publishing and distributing copies of the draft constitution. Copies of the constitution were distributed at the polls during the primary election in September 1982, and mailed to every registered voter in the District of Columbia, as mandated by the House Joint Committee Resolution 599.

The commission developed, edited, and published the legislative history of the State of New Columbia. When the constitution was mailed to the voters for the general election in November 1982, it carried with it a roster of pros and cons developed by the delegates to the convention, and this attachment to voters was used for them to write in their comments on the constitution, as was presented at the polls.

I think that it must be noted that, as Mr. Cassell just said, this constitution was drafted in record time, and so some of the things that we are working on now come out of that hastily drafted document—a good document, but it was drafted in a very, very short time.

The informal task force, which was organized during the spring of 1984, has worked for almost a year trying to come up with the amendments that we presented to you last week, to help to correct some of the problems that people found in the constitution.

To do this, we listened to many experts on the constitution's legislative interpretations of what some of the language could mean. We reflected upon these comments and the comments sent in by the voters during November 1982, and we have studied and restudied the comments and concerns raised by Senators and Representatives during earlier constitutional hearings on the constitution for New Columbia.

I believe that we have developed a more perfect document. It's not a perfect document by any means, but certainly it's a more perfect document, much in the light of the actions of the Founding Fathers of our country, whose simple actions of wanting a more perfect union developed into what we enjoy today.

The constitution, with its proposed amendments, will certainly make the task of the statehood commission easier. D.C. Law 3-171 which created the statehood commission mandates that the commission promote statehood for the District in the city and elsewhere. I feel that the amendments will bring a tremendous enhancement to these efforts.

I should add that we did not find too many unprecedented features in the original constitution. As Clint Hockenberry has pointed out, many of the features in the constitution were taken from other constitutions.

I'd just like to thank you for this hearing, for receiving my remarks, and I look forward to thinking over the comments that have been expressed here today.

[The prepared statement of Ms. Butler follows:]

★ ★ ★ 51st
d.c. statehood

DISTRICT OF COLUMBIA STATEHOOD COMMISSION/COMPACT COMMISSION
1200 S STREET N W • 2nd FLOOR • WASHINGTON D C 20009
(202) 727-6310

Josephine D. Butler, Chair
DC Statehood Commission

Marjorie H. Parker, Ph.D.
DC Statehood Compact Commission

HEARING:

The Amendments of the Constitution
of the State of New Columbia
Congressional District Hearing Room
#1310 Longworth Building
Washington,D. C. 20515

WITNESS:

Josephine D. Butler, Chair
D.C. Statehood Commission
member, informal study task force
Constitution of New Columbia

Mr. Chairman, members of the Panel, My name is Josephine D. Butler and I am chair of the D.C. Statehood [Commission] as well as chair of the D.C. Statehood Party.

The D.C. Statehood [Commission] was established by D.C. Law 3-171, which also established the Statehood Compact Commission and Statehood Constitutional Convention.

As chair and member of the Statehood Commission I have worked continuously to carry out the mandate of D.C. Law 3-171 which created the Commission. Our work began with publishing and distributing copies of the draft Constitution. Copies of the Constitution were distributed at the polls during the Primary Election, September, 1982 and mailed to every registered voter in the District as mandated by the House Joint Committee Resolution 599. The Commission developed, edited and published the Legislative History of the Constitution of New Columbia.

When the Constitution was mailed to the voters for the General Election November, 1982 it carried with a roster of pros and cons and an attachment for voters to use to write their own comments.

I think that it must be noted that the Constitution for New Columbia was drafted in record time. Forty-five delegates, as diverse as the population of the District of Columbia itself, came together and in a time frame of 90 days, organized themselves and drafted this document. And as we praise the Convention for the fine work that was done, we should realize that it was a somewhat rough draft.

The informal task force, which was organized during the Spring,1984 worked for almost a year studying the Constitution of the state of New Columbia, listening to the experts on constitutions and legislative interpretations and terms. We reflected upon the comments send in by voters during the November, 1982 election. We studied and re-studied the comments and concerns raised by Senators and Representatives during earlier Congressional hearings.

I believe that we have developed a more perfect document. It is not a perfect document, by any means, but certainly a more perfect document -- much in the light of the actions of the founding fathers of our great nation, whose simple actions of wanting to form a more perfect Union we enjoy today.

The Constitution with its proposed amendments will surely make the task of the Statehood Commission easier. D.C. Law 3-171 which created the Statehood Commission mandates that the Commission promote statehood for the District in the City and elsewhere. I feel that the amendments will bring a tremendous enhancement to these efforts.

I should add that we did not find too many unprecendented features in original work. The original Constitution seemed to have been drafted from many of the present constitutions of other states in the Union. Clint Hockenberry did a rather extensive study which supports this fact.

Thank you for receiving my remarks. I look forward to listening to comments, concerns and criticisms from other speakers on this document that is very dear to me and many residents of my hometown.

Again, thank you.

Ms. BUTLER. I'm sorry about my voice. I'm still getting over a very bad cold.

Mr. FAUNTROY. Welcome to the club. I, too, am seeking to recover from a very bad cold.

I so appreciate your testimony as well, your persistence, your courage, and your determination to see to it that all that is necessary is done to achieve in our lifetime full self-determination for the District of Columbia.

I appreciated particularly your reference to those across the years who have struggled to bring us this far on our journey. It reminds me of the fact that the splitting of a log takes many blows, but it is the last blow that splits the log. I certainly hope that all of us will be around to see that last blow go and self-determination become a reality for those of us who have worked so long and have longed so passionately for the day when we would enjoy the same rights as every other citizen of this great democracy.

Thank you so much for that reminder.

To clean up now on testimony from the task force, we're very pleased to have Mr. Joseph M. Sellers, who is the counsel for the Washington's Lawyers Committee and a member of the task force on the constitution of the State of New Columbia.

Mr. Sellers, we appreciate so very much your work during this past year in particular and the testimony which you have submitted which we look forward to your presenting at this time.

STATEMENT OF JOSEPH M. SELLERS

Mr. SELLERS. Thank you very much, Mr. Chairman.

We have heard so much today about the amendments that have been proposed to the constitution for the State of New Columbia. I'm very pleased today to be able to speak on behalf of the statehood partnership task force which was convened to study the proposed constitution of the State of New Columbia and consider whether any changes in the constitution are necessary.

We prepared the revisions that are presently before this subcommittee. I testify to support this more perfect constitution and to inform this subcommittee of the process by which the revisions were made.

The task force was formed in June 1984, at the behest of a group of leaders of the District of Columbia known as the statehood partnership, who are committed to the attainment of statehood for the District of Columbia.

The mandate conferred on the task force by the statehood partnerhip was very limited. We were authorized to review the constitution and, if necessary, propose revisions to any sections of the document which might be an impediment to the achievement of statehood.

While each member of the task force held personal opinions about the constitution, we refrained from applying these views to our work. Rather, we considered carefully only the concerns expressed by Members of Congress and by commentators of public note.

The task force exercised its mandate with considerable circumspection. We appreciated that the document we were directed to

review had been prepared by delegates to a constitutional convention who had been lawfully elected by the District of Columbia voters.

Further, we were aware that the very document we were examining had been endorsed by a majority of the D.C. voters in a referendum held in November 1982. Nonetheless, we were also aware that some provisions of the constitution had generated considerable concern and criticism.

After consulting leaders of the Congress, some of whom were represented on the task force, we concluded that, without some changes to the document, congressional support for the constitution and ultimately for statehood could be jeopardized.

Confident that bipartisan support exists in the Congress for statehood, we sought to demonstrate that the constitution was fully worthy of that support. We construed our mandate, therefore, as requiring the task force to formulate changes to the constitution that would accommodate, as far as possible, these major concerns while retaining the spirit with which the convention delegates prepared the constitution.

The task force met regularly during the past year to examine the constitution, to debate which sections seemed to revision, and to formulate changes which appear in the present draft.

All decisions of the task force were reached through consensus. Consistent with the informality of the task force, we concluded that no transcript of the meetings was necessary, but this subcommittee can be assured that the decisions of the task force were carefully reached after a full opportunity for debate on each issue.

As our guide to the concerns which required our attention, we relied principally upon the testimony delivered at a hearing held in May 1984, before this subcommittee on H.R. 3861.

That bill, introduced in the last Congress, provided for admission into the Union as a State of the non-Federal part of the District of Columbia.

In addition to this testimony delivered by Members of Congress, we also solicited and considered carefully the comments informally presented by other congressional leaders.

Further, we considered the concerns expressed by the business community as well as other important constituent groups.

Finally, we reviewed the legal scholarship generated about the constitution.

With these concerns before us, the task force consulted a variety of sources in order properly to prepare the present provisions.

First, with a full appreciation that it is a union of States to which the District of Columbia seeks admission, we examined closely the constitutions of the States of this Nation. Indeed, an extensive compilation of the relevant State constitution provisions was prepared by Clint Hockenberry, who was a member of the task force.

Second, people with considerable expertise in the subject areas in which revisions were anticipated were invited to share with the task force their views of the constitution.

Third, aware that the constitution must be understood and susceptible to use by the legal profession, we consulted lawyers who

practiced regularly in the fields in which changes were contemplated.

With the models from State constitutions and the wealth of information presented to the task force before us, we formulated together the revisions that appear before this subcommittee. The task force members dedicated hundreds of hours of time to the process I have described.

We consider these revisions to the constitution to address areas that have been most troubling but leave intact the essence of the thinking and values which the voters of the District of Columbia have twice ratified.

The task force is hopeful that, with these revisions, the constitution will form the basis for a congressional action.

We trust that the work of the task force will remind us all that the residents of the District of Columbia are pursuing seriously and vigorously the goal of attaining statehood. We urge those who adhere to this most basic principle of self-determination upon which this Nation was founded to lend a hand to this effort. Thank you.

[The prepared statement of Mr. Sellers follows:]

STATEMENT

OF

JOSEPH M. SELLERS

Before the

Subcommittee on Fiscal Afairs and Health
of the
Committee on the District of Columbia
U.S. House of Representatives

May 21, 1984

STATEMENT OF JOSEPH M. SELLERS

I speak today on behalf of the Statehood Partnership Task Force which was convened to study the proposed Constitution of the State of New Columbia and consider whether any changes in the Constitution are necessary. We prepared the revisions that are presently before this Subcommittee. I testify to support this "more perfect" Constitution and to inform this Subcommittee of the process by which the revisions were made.

Mandate of the Task Force

The Task Force was formed in June, 1984 at the behest of a group of leaders of the District of Columbia, known as the Statehood Partnership, who are committed to the attainment of statehood for the District of Columbia.

The mandate conferred on the Task Force by the Statehood Partnership was very limited. We were authorized to review the Constitution and, if necessary, propose revisions to any sections of the document which might be an impediment to the achievement of statehood. While each member of the Task Force held personal opinions about the Constitution, we refrained from applying these views to our work. Rather, we considered carefully only the concerns expressed by members of Congress and by commentators of public note.

The Task Force exercised its mandate with considerable circumspection. We appreciated that the document we were directed to review had been prepared by delegates to a constitutional convention who had been lawfully elected by the District of Columbia voters. Further, we were aware that the very document we were examining had been endorsed by a majority of the D.C. voters in a referendum held in November, 1982. Nevertheless, we were also aware that some provisions of the Constitution had generated considerable concern and criticism. After consulting leaders of the Congress, some of whom were represented on the Task Force, we concluded that, without some changes to the document, Congressional support for the Constitution, and ultimately for statehood, could be jeopardized. Confident that bipartisan support exists in the Congress for statehood, we sought to demonstrate that the Constitution was fully worthy of that support. We construed our mandate, therefore, as requiring the Task Force to formulate changes to the Constitution that would accommodate, as far as possible, these major concerns while retaining the spirit with which the convention delegates prepared the Constitution.

The Process By Which the Task Force Operated

The Task Force met regularly during the past year to examine the Constitution, to debate which sections seemed to require revision, and to formulate changes which appear in the

present draft. All decisions of the Task Force were reached through consensus. Consistent with the informality of the Task Force, we concluded that no transcript of the meetings was necessary. But this Subcommittee can be assured that the decisions of the Task Force were carefully reached after a full opportunity for debate on each issue.

As our guide to the concerns which required our attention, we relied principally upon the testimony delivered at a hearing held in May, 1984, before this Subcommittee on House Resolution 3861. That bill, introduced in the last Congress, provided for admission into the Union as a state the non-federal part of the District of Columbia. In addition to this testimony delivered by members of Congress, we also solicited and considered carefully the comments informally presented, of other Congressional leaders. Further, we considered the concerns expressed by the business community as well as other important constituent groups. Finally, we reviewed the legal scholarship generated about the Constitution.

With these concerns before us, the Task Force consulted a variety of sources in order properly to prepare the present revisions. First, with a full appreciation that it is a union of states to which the District of Columbia seeks admission, we examined closely the constitutions of the states of this nation. Indeed, an extensive compilation of the relevant state constitution provisions was prepared by Clint Hockenberry who was a member of the Task Force. Second, people with considerable

expertise in the subject areas in which revisions were anticipated were invited to share with the Task Force their views of the Constitution. Third, aware that the Constitution must be understood and susceptible to use by the legal profession, we consulted lawyers who practice regularly in the fields in which changes were contemplated.

With the models from state constitutions and the wealth of information presented to the Task Force before us, we formulated together the ones that appear before this Subcommittee. The Task Force members dedicated hundreds of hours of time to the process I have described. We consider these revisions to the Constitution to address areas that have been most troubling but leave intact the essence of the thinking and values which the voters of the District of Columbia have twice ratified.

The Task Force is hopeful that, with these revisions, the Constitution will form the basis for Congressional action. We trust that the work of the Task Force will remind us all that the residents of the District of Columbia are pursuing seriously and vigorously the hope of attaining statehood. We urge those who adhere to this most basic principle of self-determination, upon which this nation is founded, to lend a hand to this effort.

Mr. FAUNTROY. And I thank you as well, Mr. Sellers.

Indeed, I want to commend each of you once again for an excellent job in reshaping the proposed constitution in a fashion that will allow us now, I think, to move on with it.

I think the greatest tribute to your work is the fact that the distinguished witnesses who preceded you at this table have, in the main, strongly endorsed every modification that you have recommended, and, for that, you are to be justly proud.

I have three questions which I'd like any and all of you to address, if you will. The first has to do with the suggestion by the American Bar Association that a plain, straightforward document like the model State constitution which they have put together might have served our purposes better than the constitution which we developed. Would any of you care to comment on that?

Mr. CASSELL. Yes, I would like to comment on it. As a matter of fact, we used that in our development of the document.

As I said before, we have a long history in Washington, DC of frustration of desires, frustration of our ability to exercise our rights, and a variety of special interests coming from a variety of special people and groups. Those are the people who elected the 45 delegates, and those delegates approached their tasks with the concerns of their constituents in mind.

So, whereas we used the Constitution of the United States and the constitutions of the 50 States and also the model constitution, there was a desire in the constitution to assure some adherence to the specific areas of lack of respect for people's rights, and it was felt that those things needed to be codified, fully aware of the fact that the U.S. Constitution itself is not fully respected and, from time to time, there has to be some confirmation of adherence to it by the States.

We were advised that the political thing to do would be simply to adopt a very straightforward and simple thing that might get through quickly.

The feeling of the delegates also was that that really wouldn't assure its passage by Congress, that there are concerns, and feelings, and attitudes that would surface anyway.

My personal feeling is that we ought to take this document and try to make certain that it has been perfected without doing damage to its integrity.

There is a certain amount of political acumen, I suppose, that we should exercise, but, at the same time, there are 250,000 voters who approved this constitution, and we campaigned for its approval on the basis of its response to their desires.

I would prefer to see a melding of the interests of those who want to get it through Congress and those who want to make sure their rights are protected.

Mr. SELLERS. Congressman Fauntroy, I would also like to respond to that in two ways. One is to note that, as far as I know, none of the other States adopted a model constitution either as the constitution of their State, and I suspect for very much the same reason that the delegates to the constitutional convention here wished to develop their own.

I would also note that, even during the amendment process that the task force was involved in, we were mindful of the provisions of

the model constitution, and, indeed, part of the revisions proposed to article 1, section 6, dealing with searches and seizures was drawn verbatim from the model constitution. So we continue to look to the model constitution as a guide.

Ms. BUTLER. I think that all of the constitutions were good guides, but a constitution, in my opinion, must reflect the aspirations of the people who are developing it and who will live with it, and I think that this is what this constitution has done.

I even look back to Thomas Jefferson, who said that each generation should develop its own constitution.

Mr. FAUNTROY. Thank you so very much.

Each of you has been here throughout the hearings, and you've heard four modifications that have been suggested for our consideration.

The first is that perhaps the size of the house of delegates—40—is too large, given the expense of full-time compensation for that service. I hope you would comment on that for us.

Second, you heard the reservation of our Mayor about granting the right to strike to any State official or State employee, claiming that all are essential.

Third, you have heard his concerns about the appointment of boards and commissions, some of which he felt were certainly appropriate for advice and consent by the legislature, but others which he felt did not necessarily require that kind of appointment process.

The fourth thing that you heard him mention was his concern about the limitation on the boards and commissions to 20.

I wonder if you would comment on any or all of these reservations, as my second question.

Mr. CASSELL. Mr. Chairman, I think that we have been remiss——

Mr. FAUNTROY. Before you respond, may I correct the record? I understand that I said "boards and commissions" on limitations. I meant to say "departments"—to 20 departments, to which the Mayor made reference.

Mr. CASSELL. OK. We may have been remiss in not giving due credit to the gentleman who provided the very extensive, and comprehensive, and insightful background research regarding other State constitutions. That's Mr. Clint Hockenberry, who I think is still here—Mr. Clint Hockenberry of the ADA.

We used his research extensively on the task force. He not only researched other constitutions, but he made comparisons between ours and those of the other States to determine where ours may depart from the norm.

When Mr. Clarke mentioned the 40-member house, I consulted with Mr. Hockenberry, and he confirms that 40 is the smallest house of delegates in the United States. My recollection is that Vermont or one of the New England States, which is one of the smallest States, has a house of over 100 persons.

Therefore, I don't think that is an excessive amount. It may be more than we have now.

Regarding to right to strike, I expressed myself on that. I do not believe that it is, in the same way that a private union or a union not in the government sector has really no potency if it has no

right to exert some kind of pressure, some kind of meaningful pressure. There's no point in having a government or workers to unionize if they cannot have that kind of strength.

We went to great lengths, I think, in the task force to make sure that we did make a distinction between essential and nonessential. Nonessential doesn't mean not needed; nonessential means those persons without whose labors the system could still function.

I'm certain that my job at the university, if I went on strike, would not bring the city to a standstill, nor even the university.

So I believe that there are distinctions, and I think that the work of the task force took that into consideration, and I support that.

The boards and commissions—I think that the executive officer of a State has the right to appoint some commissions of its own and to have them responsible to him, and I agree with the Mayor that those created by the legislature should certainly have some oversight from them.

Our desire, in limiting the number of State departments to 20, was to keep the thing from mushrooming.

I don't know where the figure 20 came from, actually. I don't feel strongly about that. It's always possible that a government may need more than that, and I don't think that's a serious matter.

Mr. FAUNTROY. Thank you.

Mr. SELLERS. Mr. Chairman, I feel qualified only to speak to a couple of these areas.

On the issue of the right to strike, I would amplify Mr. Cassell's comments in noting that I know that during our deliberations of the task force, we were very mindful that the District of Columbia or public employees in the State of New Columbia are essential, but that it was important to weigh the need to recognize the right to organize of employees against the efficiency with which a government must operate.

The balance that we interpreted the delegates to the constitutional convention to have struck was between those employees who are essential and those who are nonessential, as defined by the legislature.

I might also note that a number of State constitutions also draw that line. It is not one that begins with this task force.

On the issue of the size of the house of delegates, I have located a section of a document which Mr. Hockenberry has produced that is called, "The 51st State: Toward Statehood for the District of Columbia." It is a compilation of the provisions of the various State constitutions of this country, which draws comparisons between the provisions of those constitutions and the proposed provisions of the constitution for the State of New Columbia.

I do see that a number of States do have houses of delegates or other legislatures comprised of substantially more members than 40, and I believe that some of those States probably even have a population less than that of the State of New Columbia.

I can't speak to the issue of whether 40 is too large, because it would be too costly, other than to say that, I'm sure during the process, that will continue, during which the constitution will be reconsidered by Members of the Congress and others, this balance will also be considered if it becomes a particularly onerous one financially.

But certainly it is not unprecedented to have a legislature of that size for a jurisdiction of this extent of population.

On the other two questions, I really don't have any particular comment, other than to say that they were not subjects of discussion during the task force deliberations.

I would suggest as well—since I was not part of the debate from which they were formulated—that to the extent they also appear to be impractical for one reason or another—for the same reasons that we proposed the revisions that are before this subcommittee today—similar revisions might be appropriate.

Mr. FAUNTROY. Thank you.

Ms. BUTLER. I think that they have spoken the words that I had wanted to say.

Mr. FAUNTROY. Good.

My final question has to do with the matter of a commuter tax. It's certainly a sticky point for my colleagues from Virginia and Maryland, and, as we proceed with statehood legislation, do any of you have thoughts on how that issue might be treated?

Mr. CASSELL. Mr. Chairman, I have to admit that I see this whole exercise as an exercise in politics—how we get this thing through the U.S. Congress.

I recognize that there are Congresspersons and Senators from Maryland and Virginia, and perhaps elsewhere, who would be deeply concerned about it. I would simply say that they have enjoyed a privilege that is not enjoyed in 43 other States.

I might say also, I might be inclined to yield a lot of things in order to get statehood.

However, if we did yield on that, what we would do would be voluntarily separating ourselves from the status of other States, voluntarily giving ourselves an inferior status.

I would hope that just on an intellectual basis Congresspersons could be made to understand that that would be very, very difficult, and perhaps the same persons may criticize us later for redefining what a State is and what its authorities are.

Ms. BUTLER. Mr. Congressman, the bill that set the constitutional commissions in place also provided for two Senators to be elected to come and help do some of the lobbying.

I agree with Mr. Cassell that—did you say political?

Mr. CASSELL. Yes.

Ms. BUTLER. That that's so, but it also means a strategy. Do we want to get Maryland and Virginia in with us? Is that step 1? And how do we do that? Or do we want to get other people?

I think that's the thing that has to be planned, and that's why the committee's work is so important, because we won't get those two Senators for another 2 or 3 years to come and help plan that strategy for the commuter tax or whatever else we want to talk about as we move forward.

Mr. SELLERS. I might just add, Mr. Congressman, that I believe the right of a State to tax revenue at its source of generation is a commonly held right for the other States of the Union, and I would expect that such right would also be possessed by the State of New Columbia.

I could conceive of, however, circumstances in which, for purposes of political compromise, there could be a phased in transition

of that right, so that the burden on taxpayers who reside in other States surrounding the State of New Columbia would not be unduly onerous.

I would also add that some members of the task force have begun an informal analysis of the financial resources that would be available to the State of New Columbia, and while we haven't concluded it, I would say that probably that analysis might bear on the question you've asked and hope to be able to furnish it to you at some point in the future.

Mr. FAUNTROY. You would not, by any chance, be suggesting that we talk to the two Senators and assure that it would not go into effect until they had decided to leave office?

Mr. SELLERS. I'll leave the politics side of it to you.

Mr. FAUNTROY. Yes, thank you so much. I have appreciated your answers to every one of the questions.

I am particularly pleased with the responses to the suggestion that perhaps the 40-member house of delegates is too large. That had concerned me. I have been comforted by the information you've provided us in your testimony—the fact that a 40-member unicameral body would be smaller than any in this country today, and that indeed States that have fewer people in them than we in the District of Columbia have more representatives in their legislatures.

I am particularly impressed with the fact that the larger number would afford more specific representation in the unicameral body. The fact is that you would assure thereby, I'm sure, that Republicans would be elected as well as Democrats, that conservatives as well as liberals, that men as well as women, and I think I'll stop there.

Of course, the statehood party would have to be the statehood party once we get statehood, I hope.

Ms. BUTLER. I don't think you realize that we had 111 planks in our platform, and we're down to solving just 26 of them with statehood. So we've got a long way to go.

Mr. FAUNTROY. Then we've been assured that the statehood party would join the Republicans, and the Democrats, and the conservatives, and the liberals.

I think we've had a very good hearing, and I think we ought to quit while we're ahead. What do you think?

Thank you so very much. You've made a valuable contribution in starting this process, and I look forward to sharing the hearing results with my colleagues in further hearings and examinations of the questions of statehood for the State of New Columbia.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned.]

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